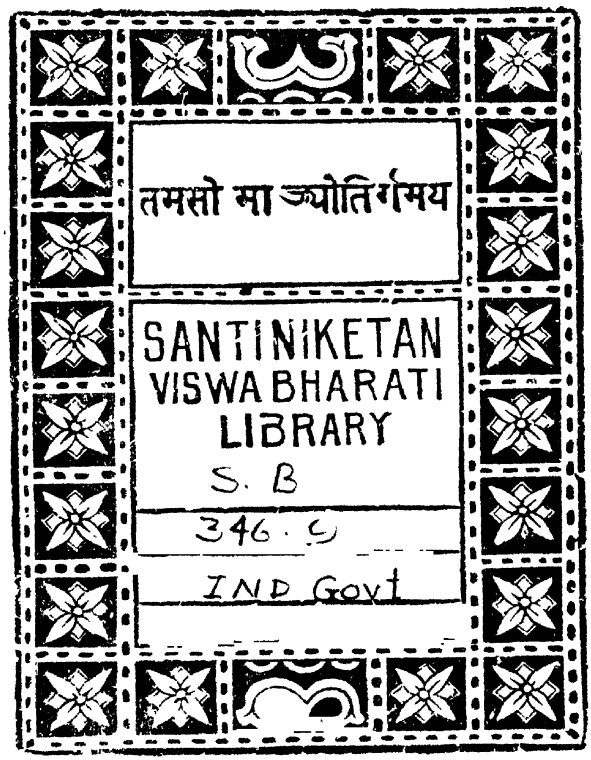

तमसो मा ज्योतिर्गमय
SANTINIKETAN
VISWA BHARATI
LIBRARY
S. B
346.9
IND Govt

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

THE

LOWER PROVINCES CODE:

IN TWO VOLUMES.

VOLUME I,

CONTAINING THE

BENGAL REGULATIONS AND LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN THE LOWER PROVINCES OF THE PRESIDENCY OF FORT WILLIAM,

WITH A CHRONOLOGICAL TABLE OF THE BENGAL REGULATIONS.

CALCUTTA:
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING.
1879.

PREFACE.

This, the first volume of the Lower Provinces Code, is published under the authority of the Government of India, and contains, first, the unrepealed Bengal Regulations in force in the Lower Provinces of the Presidency of Fort William, and, secondly, all the unrepealed local Acts of the Governor General in Council in force in those Provinces, except some private and personal Acts, which will be found in another volume.

The Regulations printed in the present volume are taken from Clarke's edition of the Bengal Regulations published in 1854, under the authority of the Court of Directors of the East India Company; the Acts from the official copies of the Acts of the Supreme Council, preserved in the Legislative Department.

The only changes made in reprinting are the following :—

(*a*.) Repealed portions of Regulations and Acts have been omitted, except in some cases where the repeal is not specific. In such cases the repeal is mentioned in a foot-note.

(*b*.) Where an Act directs that a section, a clause or words be inserted in a former Regulation or Act, in reprinting the former Regulation or Act, the insertion has been made.

(*c*.) Where one Regulation or Act refers to another, and such reference is directed by a subsequent Act to be read as if made to the latter Act, the number, year and title of the latter Act have, as a rule, been substituted in the text.

(*d*.) Arabic numerals have been substituted for the Roman numerals used in the Regulations and the earlier Acts to denote the section-numbers.

(*e.*) Words belonging to oriental languages have been uniformly spelt.

(*f.*) Lengthy sections have sometimes been divided into clauses and paragraphs.

(*g.*) In some instances marginal notes have been added; in others, they have been shortened or corrected.

The Registrar, Legislative Department, is responsible for the correct printing of unaltered matter.

W. S.

SIMLA;
The 14th October 1878.

TABLE OF CONTENTS.

	Page.
Chronological Table of Bengal Regulations	ix

PART I.—BENGAL REGULATIONS IN FORCE IN THE LOWER PROVINCES.

Year.	No.	Subject.	Page.
1793	I	Permanent Settlement...	1
,,	II	Collection of Land-revenue	11
,,	VIII	Decennial Settlement	19
,,	XI	Inheritance	30
,,	XIX	Title to Non-bádsháhí Lákhiráj Grants ...	32
,,	XXXVII	Title to Bádsháhí Lákhiráj Grants ...	46
,,	XXXVIII	Loans by Civil Servants	54
1794	III	Revenue Arrears	55
1798	I	Conditional Sales of Land	58
1799	I	Trade on Silhat Frontier	61
,,	V	Wills and Intestacies of Natives	63
1800	VIII	Pargana Register	66
,,	X	Succession to Lands, Mednípur Jangal Maháls...	67
1801	I	Division of Joint Estates	68
1804	X	State Offences	73
1805	XII	Settlement, Katak	75
,,	XIII	Police, Katak	90
1806	XI	Assistance to Marching Troops and to Travellers	94
,,	XVII	Redemption and Foreclosure of Mortgages ...	99
1810	XIX	Maintenance of Bridges, &c. : Escheats ...	102
,,	XX	Military Bázárs	105
1812	V	Collection of Land-revenue	110
,,	XI	Removal of Foreign Emigrants	112
,,	XVIII	Leases—Apportionment of Assessment on Partition	114
1814	XXIX	Settlement of Ghátwálí Maháls, Bírbhúm ...	115
1816	V	Kánúngos in Katak	117
,,	IX	Commissioner of Revenue in Sundarbans ...	119

Year.	No.	Subject.	Page.
1816	XI	Succession to Estates in Katak	120
1817	XII	Patwáris	123
,,	XX	Village-police	130
1818	III	State Prisoners	136
1819	I	Kánúngos and Patwáris	139
,,	II	Resumption of Revenue-free Lands ...	141
,,	VI	Ferries	153
,,	VIII	Patní Taluqs	158
1820	I	Sales of Taluqs for Arrears of Rent ...	172
1821	IV	Powers of Collectors and Magistrates .	173
1822	III	Board of Revenue	175
,,	VII	Settlement, Katak, &c.	178
,,	XI	Non-liability of Government for Errors of Courts	206
1823	VI	Indigo-contracts	207
,,	VII	Prohibition of Loans by Covenanted Civil Servants	212
1825	VI	Passage of Troops	214
,,	IX	Defaulting Málguzárs	216
,,	XI	Alluvion and Diluvion	224
,,	XIII	Settlement of resumed Lákhiráj Land ...	227
,,	XIV	Confirmation of Lákhiráj Tenures	230
,,	XX	Courts-martial	235
1827	III	Extortion by Native Officers	239
,,	V	Management of Estates under Attachment ...	240
1828	III	Special Commissioners	241
,,	IV	Power of Collectors in making or revising Settlements	260
1829	I	Commissioners and Board of Revenue ...	261
,,	XVII	Widow-burning	266
1830	V	Indigo-contracts	268
1833	IV	Control of Convict Labourers	269
,,	IX	Settlement	270

PART II.—UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL RELATING TO THE LOWER PROVINCES.

Year.	No.	Subject.	Page.
1835	II	Assam	275
,,	VI	Káchár	*ib.*
1836	X	Indigo-contracts	276
,,	XXI	Creating Zilas	277

Year.	No.	Subject.	Page.
1837	VI	Málguzárs, Katak	277
1839	XXVII	Execution of Decrees of Judge of 24-Parganas	*ib.*
1841	XII	Sales of Land for Revenue-arrears ...	278
1847	IX	Assessment of new Lands	*ib.*
1848	XX	Enforcement of Attendance of Landholders ...	280
1850	XX	Tributary Mahál, Katak	281
,,	XXIII	Land-revenue, Calcutta	282
,,	XXV	Forfeiture of Deposits on Land-sales ..	285
,,	XXXIII	Sale of Patní-tenures	*ib.*
,,	XLIV	Board of Revenue	286
1853	VI	Summary Suits for Rent-arrears	287
,,	XIX	Recusant Witnesses	289
1854	XX	Amending Regulation XIII of 1833 ...	290
1855	XXXII	Embankments	*ib.*
,,	XXXVII	Sontal Districts	300
1856	XII	Civil Court Amíns	303
,,	XVIII	Collector of Calcutta...	305
,,	XX	Chaukídárs	*ib.*
,,	XXII	Tolls on Karatoyá	321
1857	X	Sontal Districts	324
,,	XIII	Opium	325
,,	XXI	Howrah	333
1858	XXXI	Alluvial Land, Bengal	343
,,	XL	Minors	344
1859	V	Ghátwálí Lands, Bírbhúm	350
,,	X	Rent	356
,,	XI	Sales for Arrears of Revenue	393
,,	XII	Pilots	413
1860	XXII	Chittagong	419
1867	XIX	Darjeeling	422
1869	XVI	Bhután Dvárs	*ib.*
1870	XXVIII	Commitments from Andamans	425
1871	VI	Civil Courts	428
,,	XIX	Sessions Judges	435
1876	IV	Revenue Agents	436
,,	VI	Chutiá Nágpur Encumbered Estates ...	438
,,	XXII	Indian Museum	445
1877	XII	Amending Act VI of 1876	450
,,	XIX	Ministerial Officers of Courts	*ib.*

CHRONOLOGICAL TABLE OF BENGAL REGULATIONS.

*** With respect to entries in the fourth column the practice has been as follows :—

(*a*).—Where a Regulation has been wholy repealed more than once, the latter repealing enactment has alone been entered.

(*b*).—Where a Regulation has been partially repealed and afterwards wholly repealed, the total repeal only is entered. A repeal of the unrepealed portions of a Regulation is treated as a total repeal.

(*c*).—Partial repeals covered by later partial repeals are omitted.

(*d*).—Where a Regulation has been locally repealed and afterwards repealed by an enactment whose operation is unrestricted, the latter repealing enactment has alone been entered.

(*e*).—Local repeals covered by later local repeals are omitted.]

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1793	I	Revenue Settlement declared permanent.	Rep. in part, IV of 1846. Rep. in part, XXV of 1854; VIII of 1868; XXVI of 1871; XII of 1873; XVI of 1874; XII of 1876;
	II	Collectors and Board of Revenue	Reg. V of 1804; Reg. XV of 1813; Reg. III of 1822.
	III	Zila Courts	Rep., VI of 1871.
	IV	Civil Procedure	Rep., XVI of 1874.
	V	Appeals	Rep., X of 1861.
	VI	Sadr Díwání Adálat	Rep., XXIX of 1871.
	VII	Vakíls	Rep., Reg. XXVII of 1814.
	VIII	Decennial Settlement ...	Rep. in part, X of 1859; XVI of 1874; XII of 1876; Reg. VII of 1796; Reg. XVII of 1805; Reg. V of 1812; Reg. XII of 1817; locally, Reg. IV of 1794, s. 4.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1793	IX	Criminal Procedure ...	Rep., XII of 1873.
	X	Court of Wards	Rep., XVI of 1874.
	XI	Inheritance	Rep. in part, XVI of 1874.
	XII	Native law-officers	Rep., XI of 1864.
	XIII	Ministerial officers of Courts ...	Rep., XXIX of 1871.
	XIV	Recovery of revenue-arrears ...	Rep., XVI of 1874.
	XV	Interest...	Rep., VIII of 1868.
	XVI	Arbitration	Rep., X of 1861.
	XVII	Distress for rent	Rep., X of 1859.
	XVIII	Records of Courts	Rep., XII of 1873.
	XIX	Non-bádsháhí Lákhiráj grants...	Rep. in part, X of 1859, s. 28; VIII of 1868; XVI of 1874; XII of 1876; Reg. VIII of 1800, ss. 11, 12 and 15; Reg. II of 1819; locally, Reg. V of 1813; locally, Ben. Act VII of 1876.
	XX	Power to propose Regulations ...	Rep., XXIX of 1871.
	XXI	Revenue Records	Rep., XII of 1873.
	XXII	Police	Rep., XXIX of 1871.
	XXIII	Expense of Police	Rep., Reg. VI of 1797.
	XXIV	Pensions charged on Revenue ...	Rep., XXIII of 1871.
	XXV	Division of revenue-paying estates.	Rep., Reg. XIX of 1814.
	XXVI	Minority of Native landholders ...	Rep., XXIX of 1871.
	XXVII	Saír	Rep., XXIX of 1871.
	XXVIII	Residence of British subjects ...	Rep., VIII of 1868.
	XXIX	Salt Agents	Rep., Reg. X of 1819.
	XXX	Illicit manufacture of salt ...	Rep., Reg. VI of 1801.
	XXXI	Commercial Residents ...	Rep., VIII of 1868.
	XXXII	Opium	Rep., XIII of 1857.
	XXXIII	Embankments and tanks, &c. ...	Rep., XXVI of 1871.
	XXXIV	Ábkárí	Rep., Reg. X of 1813.
	XXXV	Coinage...	Rep., VIII of 1868.
	XXXVI	Registry for Wills and Deeds ...	Rep., XVI of 1864.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1793	XXXVII	Bádsháhí Lákhiráj grants ...	Rep. in part, XVI of 1874; Reg. VIII of 1800, ss. 11, 12 and 15; Reg. II of 1819; locally, Reg. V of 1813; locally, Ben. Act VII of 1876.
	XXXVIII	Loans by Civil Servants ...	Rep. in part, VIII of 1868; XVI of 1874.
	XXXIX	Kázís	Rep., XI of 1864.
	XL	Commissions to hear petty suits ..	Rep , Reg. XXIII of 1814.
	XLI	For codifying Regulations ...	Rep., VIII of 1868.
	XLII	Collection of Customs ...	Rep., Reg. IX of 1810.
	XLIII	Grants to sepoy invalids ...	Rep., XXIX of 1871.
	XLIV	Grant of leases	Rep., XXIX of 1871.
	XLV	Execution-sales of Málguzárí and Lákhiráj lands.	Rep., IV of 1846.
	XLVI	Pauper-suits	Rep., Reg. XXVIII of 1814.
	XLVII	Judges of Provincial Courts of Appeal.	Rep., VIII of 1868.
	XLVIII	Quinquennial Register ...	Rep. in part, VIII of 1868; XVI of 1874; XII of 1876; Reg. VIII of 1800, ss. 11, 12 and 15; Rep. wholly in L. P., Ben. Act VII of 1876.
	XLIX	Disputed Boundaries ...	Rep., IV of 1840.
	L	Court of Wards	Rep., XVI of 1874.
	LI	Illicit manufacture of spirit ...	Rep., Reg. X of 1813.
1794	I	Illicit distilling	Rep., Reg. X of 1813.
	II	Postponing Reg. VIII of 1793 in Bhágalpur.	Rep., VIII of 1868.
	III	Revenue-arrears, &c. ...	Rep. in part, XII of 1873; XVI of 1874; XII of 1876; Ben. Act VII of 1868, s. 29.
	IV	Rayatí Pattás	Rep., X of 1859.
	V	Appeals...	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1794	VI	Silver Coin	Rep., VIII of 1868.
	VII	Courts of Circuit	Rep., XVII of 1862.
	VIII	Registrars of Zila and City Courts	Rep., VIII of 1868.
1795	I	Permanent Settlement, Benares ...	Rep. in part, XII of 1876.
	II	Temporary Settlement, Benares ...	Rep., XIX of 1873.
	III	Collection of Customs, Benares ...	Rep., Reg. IX of 1810.
	IV	Internal duties, Benares ..	Rep., VIII of 1868.
	V	Collectors of Revenue, Benares ...	Rep., XIX of 1873.
	VI	Realization of revenue, Benares .	Rep., XIX of 1873.
	VII	Courts of Díwání Adálat, Benares	Rep., VI of 1871.
	VIII	Extending Reg. IV of 1793 to Benares.	Rep., XVI of 1874.
	IX	Provincial Court of Appeal, Benares	Rep., X of 1861.
	X	Appeals, Benares	Rep., XXIX of 1871.
	XI	Extending Reg. XII of 1793 to Benares.	Rep., XI of 1864.
	XII	Extending Reg. XIII of 1793 to Benares.	Rep., XXIX of 1871.
	XIII	Extending Reg. VII of 1793 to Benares.	Rep., Reg. XXVII of 1814.
	XIV	Extending Reg. XLIX of 1793 to Benares.	Rep., IV of 1840.
	XV	Extending Reg. XVI of 1793 to Benares.	Rep. in part, X of 1861; XII of 1876; Reg. XXVII of 1814.
	XVI	Criminal Procedure, Benares ...	Rep., VIII of 1868.
	XVII	Police, Benares	Rep., VIII of 1868.
	XVIII	Extending Reg. XVIII of 1793 to Benares.	Rep., XII of 1873.
	XIX	Quinquennial Register, Benares ...	Rep., XIX of 1873.
	XX	Execution-sales of Málguzárí lands	Rep., IV of 1846.
	XXI	Dharna, Infanticide, Benares ...	Rep., XVII of 1862.
	XXII	Administration of Justice, Benares	Rep., VIII of 1868.
	XXIII	Extending Reg. XLVI of 1793 to Benares.	Rep., Reg. XXVIII of 1814.
	XXIV	Extending Reg. XXVIII of 1793 to Benares.	Rep., VIII of 1868.
	XXV	Extending Reg. XLVII of 1793 to Benares.	Rep., VIII of 1868.
	XXVI	Extending Reg. XXV of 1793 to Benares.	Rep., Reg. XIX of 1814.
	XXVII	Permanent Settlement, Benares	Rep. in part, IV of 1846; XVI of 1874; Reg. XII of 1817.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1795	XXVIII	Extending Reg. XXXVI of 1793 to Benares.	Rep., XVI of 1864.
	XXIX	Extending Reg. XX of 1793 to Benares.	Rep., VIII of 1868.
	XXX	Extending Reg. XXI of 1793 to Benares.	Rep., XII of 1873.
	XXXI	Extending Reg. XL of 1793 to Benares.	Rep., Reg. XXIII of 1814.
	XXXII	Opium, Benares ...	Rep., XIII of 1857.
	XXXIII	Indigo, Benares ...	Rep., VIII of 1868.
	XXXIV	Pensions, Benares ...	Rep., XXIII of 1871.
	XXXV	Recovery of rent and revenue	Rep., X of 1859.
	XXXVI	Appeals ...	Rep., VIII of 1868.
	XXXVII	Suits in Subordinate Courts ...	Rep., Reg. VII of 1829.
	XXXVIII	Court Fees ...	Rep., VIII of 1868.
	XXXIX	Customs, Calcutta ...	Rep., Reg. IX of 1810.
	XL	Salt	Rep., Reg. VI of 1801.
	XLI	Non-bádsháhí Lákhiráj, Benares...	Rep., XIX of 1873.
	XLII	Bádsháhí Lákhiráj, Benares ...	Rep., XIX of 1873.
	XLIII	Grants to invalid sepoys, Benares...	Rep., XXIX of 1871.
	XLIV	Inheritance of revenue-paying land, Benares.	
	XLV	Distress for rent, Benares ...	Rep., X of 1859.
	XLVI	Extending Reg. XXXIII of 1793 to Benares.	Rep., XXVI of 1871.
	XLVII	Ábkárí, Benares ...	Rep., Reg. X of 1813.
	XLVIII	Loans by Civil Servants, Benares...	Rep., XV of 1874.
	XLIX	Kázís, Benares ...	Rep., XI of 1864.
	L	Leases by landholders, Benares ...	Rep., XXIX of 1871.
	LI	Rayatí Pattás, Benares ...	Rep., XIX of 1873.
	LII	Importation of salt, B. B. & O. ...	Rep., Reg. X of 1819.
	LIII	Opium, Bengal ...	Rep., XIII of 1857.
	LIV	Extending to Benares parts of Regs. VIII of 1794 and XXXVI of 1795.	Rep., X of 1861.
	LV	Security from guardians ...	Rep., XVI of 1874.
	LVI	Heirs of invalids, B. B. & O. ...	Rep., Reg. I of 1804.
	LVII	Duties, Calcutta ...	Rep., Reg. IX of 1810.
	LVIII	Commission on jama: Copies of decrees.	Rep., XII of 1876.
	LIX	Silver coin ...	Rep., VIII of 1868.
	LX	Extending to Benares Reg. XXXVIII of 1795.	Rep., VIII of 1868.
	LXI	Sicca Rupees, B. B. & O. ...	Rep., VIII of 1868.
	LXII	Murshidábád Mint ...	Rep., VIII of 1868.
1796	I	Trials of hillmen in Rájmahál ...	Rep., Reg. I of 1827.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1796	II	Trials of European British subjects	Rep., XVII of 1862.
	III	Court of Wards ...	Rep., XXIX of 1871.
	IV	Absence of Judges and Magistrates	Rep., XXIX of 1871.
	V	Public sales of land, B. B. and O....	Rep., Reg. XI of 1822.
	VI	Criminal law ...	Rep., Reg. XIV of 1810.
	VII	Court of Wards ...	Rep., VIII of 1868.
	VIII	Pleaders fees, B. B. & O. ...	Rep., Reg. XXVII of 1814.
	IX	Prisoners' witnesses ..	Rep., XVII of 1862.
	X	Construction of Regulations ...	Rep., VIII of 1868.
	XI	Resisting Process ...	Rep., XVII of 1862.
	XII	Deposit at public sales of land ...	Rep., IV of 1846.
	XIII	Execution of decrees ...	Rep., X of 1861.
1797	I	Duties, Calcutta : Opium ...	Rep., Reg. IX of 1810.
	II	Police responsibility of landholders, Benares.	Rep., XXIX of 1871.
	III	Court of Circuit ...	Rep., VIII of 1868.
	IV	Amending Reg. IX of 1793 ...	Rep., XVII of 1862.
	V	Dharna, B. B. & O. ...	Rep., Reg. VII of 1820.
	VI	Appropriation of Police-funds ...	Rep., XXIX of 1871.
	VII	Zila of Bakarganj ...	Rep., XII of 1873.
	VIII	Recovery of losses by theft, Benares	Rep., VIII of 1868.
	IX	Duty on indigo ...	Rep., Reg. IX of 1810.
	X	Stamps on Ábkárí licenses ...	Rep., Reg. I of 1814.
	XI	Bonds of British suitors ...	Rep., VIII of 1868.
	XII	Appeals to Sadr Díwání Adálat ...	Rep., X of 1861.
	XIII	Assistant Magistrates ...	Rep., XVII of 1862.
	XIV	Fines : Restitution of stolen property.	Rep., XVII of 1862.
	XV	Fees on division and transfer of estates.	Rep. locally, XIX of 1873; in part, XII of 1876; wholly in L. P., Ben. Act VII of 1876.
	XVI	Appeals to Privy Council ...	Rep., VI of 1874.
	XVII	Punishment for perjury ...	Rep., Reg. II of 1807.
	XVIII	Zila Judge, Chittagong ...	Rep., Reg. XXIII of 1814.
	XIX	Translations of proceedings in zila and city Courts.	Rep., X of 1861.
1798	I	Conditional sales.	
	II	Reviews ...	Rep., VIII of 1868.
	III	Vacations : Gaol deliveries ...	Rep., XVII of 1862.
	IV	Officers of Salt Chaukís ...	Rep., Reg. X of 1819.
	V	Appeals : Court-fees ...	Rep., X of 1861.
1799	I	Trade on Silhat Frontier ...	Rep. in part, XVI of 1874; Reg. II of 1828.
	II	Gaol deliveries : Escaped convicts...	Rep., XVII of 1862.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1803	XXIV	Pensions, Ced. P.	Rep., XXIII of 1871.
	XXV	Board of Revenue, Collectors, Ced. P.	Rep., XIX of 1873.
	XXVI	Sale and division of revenue-paying lands, Ced. P.	Rep., XXIX of 1871.
	XXVII	Realization of land-revenue, Ced. P.	Rep., XIX of 1873.
	XXVIII	Distress for rent, Ced. P. ...	Rep., X of 1859.
	XXIX	Patwáris, Ced. P.	Rep., Reg. XII of 1817.
	XXX	Grant of pattás, Ced. P. ...	Rep., XIX of 1873.
	XXXI	Non-bádsháhí grants, Ced. P. ...	Rep., XIX of 1873.
	XXXII	Boundary-disputes, Ced. P. ...	Rep., IV of 1840.
	XXXIII	Embezzlement of public money, Ced. P.	Rep. in part, XII of 1876.
	XXXIV	Interest, Ced. P.	Rep., XV of 1874.
	XXXV	Police, Ced. P.	Rep., XXIX of 1871.
	XXXVI	Bádsháhí grants, Ced. P. ...	Rep., XIX of 1873.
	XXXVII	Company's Investment, Ced. P. ...	Rep., VIII of 1868.
	XXXVIII	Abolition of transit-duties, Ced. P.	Rep., Reg. IX of 1810.
	XXXIX	Salt, Ced. P.	Rep., Reg. VI of 1804.
	XL	Sale of spirits, Ced. P. ...	Rep., Reg. X of 1813.
	XLI	Cultivation of Poppy, Ced. P. ...	Rep., Reg. XIII of 1816.
	XLII	Register of revenue-paying estates, Ced. P.	Rep., XIX of 1873.
	XLIII	Court Fees, Ced. P.	Rep., XVI of 1874.
	XLIV	Repair of water-courses, &c., Ced. P.	Rep., XXVI of 1871.
	XLV	Coinage, Ced. P.	Rep., VIII of 1868.
	XLVI	Kázi-ul-kuzát, Ced. P. ...	Rep., XI of 1864.
	XLVII	Power to grant leases, Ced. P. ...	Rep., XXIX of 1871.
	XLVIII	Adulteration of salt	Rep., Reg. X of 1819.
	XLIX	Assistant Judges: Appeals ...	Rep., XVI of 1874.
	L	Witnesses: Oaths	Rep., XVII of 1862.
	LI	Court of Circuit, Ced. P. ...	Rep., VIII of 1868.
	LII	Court of Wards, Ced. P. ...	Rep., XIX of 1873.
	LIII	Criminal law	Rep., XVII of 1862.
	LIV	Postponing in Chittagong Reg. XXXV of 1793, sec. 20.	Rep., VIII of 1868.
1804	I	Invalid jágírs and pensions ...	Rep., XXIX of 1871.
	II	Gaol deliveries	Rep., VIII of 1868.
	III	Criminal law, Ced. P. ...	Rep., XVII of 1862.
	IV	Criminal law, Katak ...	Rep., VIII of 1868.
	V	Native officers	Rep., XVI of 1874.
	VI	Salt, Ced. and Conq. P. and Benares	Rep., VIII of 1868.
	VII	Duty on Salt, Ced. and Conq. P....	Rep., VIII of 1868.
	VIII	Zilas of Allahábád and Gorakhpur	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1804	IX	Criminal Procedure, Ced. and Conq. P.	Rep., X of 1872.
	X	State-offences	Rep. in part, XVI of 1874.
	XI	Collection of Customs, Ced. and Conq. P.	Rep., Reg. IX of 1810.
1805	I	Appeals from Courts at Chandernagore and Chinsurah.	Rep., VIII of 1868.
	II	Limitation	Rep., VIII of 1868.
	III	Punishment of Robbery ...	Rep., XVII of 1862.
	IV	Company's Investment ...	Rep., VIII of 1868.
	V	Settlement, Ced. P.	Rep., VIII of 1868.
	VI	Town-duties, Ced. and Conq. P. ...	Rep., Reg. X of 1810.
	VII	Covenanted Servants engaging in trade.	Rep., VIII of 1868.
	VIII	Extending certain Regulations, Conq. P.	Rep., XIX of 1873.
	IX	Settlement, Conq. P. ...	Rep., XIX of 1873.
	X	Chief Judge, Sadr Díwání and Nizámat Adálat.	Rep., XVI of 1874.
	XI	Coinage, Conq. P.	Rep., VIII of 1868.
	XII	Land Revenue, Katak ...	Rep. in part, X of 1840; X of 1859, s. 28; XVI of 1864; XVI of 1874.
	XIII	Police, Katak	Rep. in part, XVI of 1874; XII of 1876.
	XIV	Civil Suits, Katak	Rep., XII of 1876.
	XV	Trials by Native law-officers ...	Rep., X of 1861.
	XVI	Chandernagore and Chinsurah ...	Rep., VIII of 1868.
	XVII	Joint undivided estates ...	Rep., XXIX of 1871.
	XVIII	Jungle maháls	Rep., VIII of 1868.
	XIX	Nawáb Názim	Rep., XXVII of 1854.
1806	I	Murshídábád	Rep., VIII of 1868.
	II	Civil Procedure	Rep., X of 1861.
	III	Silver and Copper coinage, Ced. and Conq. P.	Rep., VIII of 1868.
	IV	Pilgrims to Temple of Jagannáth	Rep., X of 1840.
	V	Tax under Reg. IV of 1806 ...	Rep., X of 1840.
	VI	Repair of Embankments ...	Rep., XVI of 1874.
	VII	Court of 24-Parganas ...	Rep., XVI of 1874.
	VIII	Complaints against Collectors ...	Rep., XVI of 1874.
	IX	Salt	Rep., Reg. X of 1819.
	X	Complaints against Judges ...	Rep., XXIX of 1871.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1806	XI	Passage of troops	Rep. in part, XVI of 1874; XII of 1876; Reg. II of 1811; Reg. III of 1820.
	XII	Parganas of Sonk, Sonsa and Sahar	Rep., XV of 1874.
	XIII	Stamps	Rep., Reg. I of 1814; Reg. X of 1829.
	XIV	Saháranpur	Rep., XV of 1874.
	XV	European British offenders ...	Rep., XVII of 1862.
	XVI	Názim of Bengal	Rep., XXVII of 1854.
	XVII	Interest: Redemption ...	Rep. in part, XXVIII of 1855.
	XVIII	Canal tolls, Ben.	Rep., XII of 1873.
	XIX	Duty on spirits	Rep., Reg. IX of 1810.
	XX	Sale of Spirits in Cantonments ...	Rep., Reg. X of 1813.
	XXI	Tahsíldárs, Benares, &c. ...	Rep., XXIX of 1871.
	XXII	Pensions	Rep., XXIII of 1871.
1807	I	Provincial Courts of Appeal ...	Rep., X of 1861.
	II	Punishment of Perjury and Forgery	Rep., XVII of 1862.
	III	College at Fort William ...	Rep., Reg. XX of 1814.
	IV	Rates of issuing and receiving rupees.	Rep., VIII of 1868.
	V	Cultivation of Poppy ...	Rep., Reg. XIII of 1816.
	VI	Partition of small estates ...	Rep., Reg. XIX of 1814.
	VII	Payment of revenue, Benares ...	Rep., XIX of 1873.
	VIII	Stamps	Rep., Reg. I of 1814.
	IX	Criminal Procedure	Rep., XVII of 1862.
	X	Settlement, Ced. and Conq. Provinces.	Rep., VIII of 1868.
	XI	Control of Customs	Rep., VIII of 1868.
	XII	Police, Lower Provinces ...	Rep., VIII of 1868.
	XIII	Currency	Rep., VIII of 1868.
	XIV	Police, Benares, &c.	Rep., XXIX of 1871.
	XV	Judges, S. D. and Nizámat Adálat	Rep., VIII of 1868.
1808	I	Tax on Tári	Rep., Reg. X of 1813.
	II	Minors, Chandernagore ...	Rep., VIII of 1868.
	III	Sale of Tári	Rep., Reg. X of 1813.
	IV	Kánúngo, Benares, &c. ...	Rep., XIX of 1873.
	V	Settlement, Ced. P.	Rep., XXIX of 1871.
	VI	Settlement, Katak	Rep., VIII of 1868.
	VII	Registers of land free of assessment, Ced. and Conq. P.	Rep., XXIX of 1871.
	VIII	Punishment of Robbery ...	Rep., XVII of 1862.
	IX	Dacoits	Rep., IV of 1844.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1808	X	Superintendent of Police, Ben. ...	Rep., VIII of 1868.
	XI	Rent of heirs of invalid jágírdárs...	Rep., XXIX of 1871.
	XII	Administration of justice, Serampur	Rep., Reg. III of 1816.
	XIII	Civil Procedure	Rep., X of 1861.
1809	I	Board of Commissioners, Upper Provinces.	Rep., VIII of 1868.
	II	General Courts Martial ...	Rep., VIII of 1868.
	III	Police in Cantonments ...	Rep., XXIX of 1871.
	IV	Temple of Jagannáth ...	Rep., X of 1840.
	V	Trial of Natives committing offences abroad.	Rep., I of 1849.
	VI	Cultivation of Poppy ...	Rep., Reg. XIII of 1816.
	VII	Stamps	Rep., Reg. I of 1814.
	VIII	Native Officers	Rep., XVI of 1874.
	IX	Administration of justice at Chinsurah and Chandernagore.	Rep., VIII of 1868.
	X	Copper Coinage, Benares ...	Rep., VIII of 1868.
1810	I	Native Law Officers... ...	Rep., XVII of 1862.
	II	Robberies by Cozaucks ...	Rep., Reg. XV of 1812.
	III	Oaths of Paupers	Rep., Reg. XXVIII of 1814.
	IV	Commissioner in Katak ...	Rep., VIII of 1868.
	V	Division of revenue-paying estates	Rep., Reg XIX of 1814.
	VI	Information of robberies ...	Rep., X of 1872.
	VII	Canal-tolls	Rep., XXII of 1836.
	VIII	Superintendents of Police ...	Rep , VIII of 1868.
	IX	Customs	Rep., VI of 1863.
	X	Town-duties	Rep., XVI of 1874.
	XI	Temple of Jagannáth ...	Rep., X of 1840.
	XII	Amending Regs. VII and X of 1809	Rep., VIII of 1868.
	XIII	Civil Procedure	Rep., X of 1861.
	XIV	Criminal Procedure	Rep., XVII of 1862.
	XV	House-tax	Rep., Reg. VII of 1812.
	XVI	Magistrates	Rep., X of 1872.
	XVII	Salt	Rep. in part, Reg. XX of 1817; Reg. XVI of 1829; XIV of 1836; Residue rep., XIV of 1843.
	XVIII	Duties on Pilgrims	Rep., X of 1840.
	XIX	Native Endowments; Escheats	Rep. in part, XX of 1863; Reg. XVII of 1816, s. 16.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1810	XX	Army-retainers: Military bázárs	Rep. in part, XI of 1841; XXII of 1864; XVI of 1874; XII of 1876; X of 1877.
1811	I	House-breaking: Stolen goods, B. B. & O.	Rep., X of 1872.
	II	Invalid Native Officers ...	Rep., XXIII of 1871.
	III	Trade of foreign nations ...	Rep., VIII of 1868.
	IV	Exemption from house-tax ...	Rep., Reg. VII of 1812.
	V	Duty on pachwái	Rep., Reg. X of 1813.
	VI	Repealing Reg. XXVII of 1793 in part, B. B. & O.	Rep., VIII of 1868.
	VII	Police	Rep., XVII of 1862.
	VIII	Modifying Regs. XXXI and XXXVI of 1803.	Rep., Reg. II of 1819.
	IX	Division of estates	Rep., XVI of 1874.
	X	Importation of slaves ...	Rep., VIII of 1868.
	XI	Jama on divided estates ...	Rep., Ben. Act VIII of 1876.
	XII	Sadr Díwání Adálat... ...	Rep., VIII of 1868.
	XIII	Board of Revenue, B. B. O. & Katak.	Rep., XXIX of 1871.
	XIV	Transportation, 24-Parganas ...	Rep., XVII of 1862.
1812	I	Duty on horses: Export of Woollens, Ben.	Rep., VIII of 1868.
	II	Coinage of gold and silver ...	Rep., XXIII of 1870.
	III	Criminal Procedure, &c. ...	Rep., XVI of 1874.
	IV	Suits by or against Native Princes	Rep., X of 1861.
	V	Collection of Land-revenue ...	Rep. locally, XIX of 1873; in part, XVI of 1874; XII of 1876; X of 1859; Reg. XII of 1824; Reg. VII of 1830; Reg. VIII of 1831.
	VI	Bond under Reg. III of 1811 ...	Rep., Reg. VII of 1818.
	VII	Rescinding Regs. XV of 1810 and IV of 1811.	Rep., VIII of 1868.
	VIII	Saltpetre	Rep., Reg. IV of 1814.
	IX	Settlement of Ced. P. ...	Rep., XXIX of 1871.
	X	Settlement of Conq. Provinces and Katak.	Rep., XXIX of 1871.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1812	XI	Immigrants	Rep. in part, XVI of 1874.
	XII	Stamps...	Rep., Reg. I of 1814.
	XIII	Sale of spirits	Rep., Reg. X of 1813.
	XIV	Leases, Ced. and Conq. P., Katak...	Rep., XXIX of 1871.
	XV	Extending parts of Reg. I of 1811	Rep., XVI of 1874.
	XVI	Execution by Judge of 24-Parganas of judgments of Calcutta Court of Requests.	Rep., VIII of 1868.
	XVII	Duties under Reg. I of 1812 ...	Rep., Reg. XIV of 1813.
	XVIII	Leases: Assessment on shares of divided estates.	Rep. in part, XVI of 1874; locally, XIX of 1873.
	XIX	Collection of Customs and Town Duties.	Rep., VIII of 1868.
	XX	Registry of deeds	Rep., XVI of 1864.
	XXI	Repealing part of Reg. I of 1811	Rep., VIII of 1868.
	XXII	Exempting parts of Bundelkhand from Regulations.	Rep. in part, XVI of 1874.
1813	I	Settlement of Katak, &c. ...	Rep., VIII of 1868.
	II	For preventing Native officers from using public money.	Rep., XXIX of 1871.
	III	Review in appealable Civil cases	Rep., Reg. XXVI of 1814, s. 4.
	IV	Toll on boats passing through certain rivers.	Rep., Reg. VIII of 1824.
	V	Modifying Regs. XIX and XXXVII of 1793.	Rep., Reg. II of 1819.
	VI	Referring land-suits to arbitration	Rep., X of 1861.
	VII	Extending Reg. III of 1801 and Reg. VIII of 1794, s. 13.	Rep., VIII of 1868.
	VIII	Trials of persons committing offences abroad.	Rep., I of 1849.
	IX	Transportation	Rep., XVII of 1862.
	X	Manufacture and sale of spirits ...	Rep., XXI of 1856.
	XI	Pensions	Rep., XXIII of 1871.
	XII	Collection of Customs and Town Duties.	Rep., VIII of 1868.
	XIII	Police Chaukídárs, Dháká, &c. ...	Rep., Reg. XXII of 1816.
	XIV	Import-duties on horses ...	Rep., VIII of 1868.
	XV	Díwán to Collectors	Rep., VIII of 1868.
	XVI	Rescinding Reg. XIII of 1806, s. 10	Rep., Reg. I of 1814.
	XVII	Charges against European officers	Rep., XXVI of 1839.
1814	I	Stamps	Rep., Reg. X of 1829.
	II	Suits against public officers ...	Rep., X of 1861.
	III	Extending Reg. XIII of 1813 ...	Rep., Reg. XXII of 1816.
	IV	Repealing Reg. VIII of 1812 ...	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1814	V	Judges of Provincial Courts of Appeal.	Rep., VIII of 1868.
	VI	Modifying Regs. IX of 1810 and I of 1812.	Rep., XII of 1873.
	VII	Copper Coinage, Benares ...	Rep., VIII of 1868.
	VIII	Liability of Zamíndárs to give information of murders, &c.	Rep., X of 1872.
	IX	Explaining Regs. XIII of 1813 and III of 1814.	Rep., VIII of 1868.
	X	Explaining Reg. I of 1814 ...	Rep., VIII of 1868.
	XI	Housebreaking	Rep., XVII of 1862.
	XII	Pensions to Invalid Sepoys ...	Rep., VI of 1849.
	XIII	Abolition of Kotwál in Dháká, &c.	Rep., VIII of 1868.
	XIV	Twenty-four Parganas ...	Rep., Reg. VIII of 1832.
	XV	Convictions for several offences ...	Rep., XVII of 1862.
	XVI	Extending Reg. XIII of 1813 ...	Rep., Reg. XXII of 1816.
	XVII	Recovery of arrears due from distillers.	Rep., XXI of 1856.
	XVIII	Sales for arrears of revenue ...	Rep., Reg. XI of 1822.
	XIX	Partition of revenue-paying estates.	Rep. in part, XI of 1838; XVI of 1874; locally, XIX of 1863; wholly in L. P., Ben. Act VIII of 1876.
	XX	Rescinding Regulations relating to College of Fort William.	Rep., VIII of 1868.
	XXI	Preventing Zila Judges and Collectors from employing Native Creditors.	Rep., XXIX of 1871.
	XXII	Salt, Katak	Rep., Reg. X of 1819.
	XXIII	Munsifs and Sadr Amíns ...	Rep., XVI of 1868.
	XXIV	Zila and City Courts ...	Rep., X of 1861.
	XXV	Sadr Díwání Adálat and Provincial Courts.	Rep., XVI of 1874.
	XXVI	Civil Procedure	Rep., XII of 1873.
	XXVII	Vakíls	Rep., XVI of 1874.
	XXVIII	Pauper-suitors	Rep., X of 1861.
	XXIX	Ghátwálí Maháls.	
1815	I	Mukarrari grants, C. & C. P. ...	Rep., XXIX of 1871.
	II	Extending Reg. XXIV of 1814, s. 12, cl. 7.	Rep., X of 1861.
	III	Settlement of Katak ...	Rep., VIII of 1868.
	IV	Collection of Customs ...	Rep., VIII of 1868.
	V	Pargana of Bogri	Rep., Reg. IX of 1817.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1816	I	Superintendence of revenues, Benares and Bihár.	Rep., Reg. III of 1822.
	II	Kánúngo, Bihár	Rep., VIII of 1868.
	III	Repealing Reg. XII of 1808 ...	Rep., VIII of 1868.
	IV	Petitions by prisoners ...	Rep., VIII of 1868.
	V	Kánúngo, Katak, &c. ...	Rep. in part, XVI of 1874.
	VI	Settlement, Katak, &c. ...	Rep., VIII of 1868.
	VII	Amrat Rao's Jágír	Rep., XVII of 1853.
	VIII	Superintendent and Remembrancer of Legal Affairs.	Rep., Reg. XIII of 1829.
	IX	Commissioner of Revenue, Sundarbans.	Rep. in part, XVI of 1874.
	X	Export and Import of Saltpetre ...	Rep., Reg. XV of 1825.
	XI	Succession, Katak ...	Rep. in part, XVI of 1874; XII of 1876.
	XII	Custom-house, Cox's Bázár ...	Rep., VIII of 1868.
	XIII	Opium	Rep. in part, XXI of 1856; Residue rep., XIII of 1857.
	XIV	Jails	Rep., XXVI of 1870.
	XV	Trial of Suits to which Sepoys are parties.	Rep., X of 1861.
	XVI	Settlement, Ceded Provinces ...	Rep., VIII of 1868.
	XVII	Police	Rep., XVI of 1874.
	XVIII	Pargana of Hendya	Rep., XV of 1874, sec. 9.
	XIX	Ferries	Rep., Reg. VI of 1819.
	XX	Modifying Reg. III of 1811 ...	Rep., Reg. VII of 1818.
	XXI	Copper Pice	Rep., VIII of 1868.
	XXII	Chaukídárs of Police ...	Rep., XX of 1856.
1817	I	Commissioner in Bihár and Benares	Rep., Reg. III of 1822.
	II	Kánúngo, Rámgarh, &c., Zilas ...	Rep., VIII of 1868.
	III	Petty suits	Rep., X of 1861.
	IV	Dehra Dún	Rep., VIII of 1868.
	V	Hidden Treasure	Rep., VI of 1878.
	VI	Explaining Reg. XXIV of 1803, s. 2.	Rep., XXIII of 1871.
	VII	Chaukídárs of Police ...	Rep., XX of 1856.
	VIII	Modifying Reg. XVII of 1813 ...	Rep., XXVI of 1839.
	IX	Repealing Reg. V of 1815 ...	Rep., VIII of 1868.
	X	Trial of persons committing offences in Kumáon.	Rep., X of 1838.
	XI	Modifying Regs. XIX and XXXVII of 1793.	Rep., Reg. II of 1819.
	XII	Patwáris	Rep. in part, XVI of 1874; XII of 1876; locally, XIX of 1873.
	XIII	Kánúngo, Mednípur ...	Rep., XXIX of 1871.
	XIV	Amending Reg. II of 1812 ...	Rep., XXIII of 1870.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1817	XV	Duty on foreign salt ...	Rep., XVI of 1837.
	XVI	Duty on foreign opium ...	Rep., XXIX of 1871.
	XVII	Criminal Procedure	Rep., XVII of 1862.
	XVIII	Oaths of office; Native officers ...	Rep., XXIX of 1871.
	XIX	Civil Procedure: Arrears of rent...	Rep., X of 1861.
	XX	Police ...	Rep. in part, XVIII of 1835; X of 1859; XVII of 1862; X of 1872; XVI of 1874; VIII of 1875; XII of 1876; locally, XVI of 1873; Ben. Act VI of 1870.
	XXI	Modifying Reg. IV of 1815 ...	Rep., VI of 1863.
	XXII	Native ministerial officers, Katak	Rep., Reg. V of 1818, s. 7.
	XXIII	Modifying Regs. XIX and XXXVII of 1793.	Rep., Reg. II of 1819.
	XXIV	Commission in Bihár and Benares	Rep., XXIX of 1871.
	XXV	Pice	Rep., VIII of 1868.
	XXVI	Farakhábád rupees	Rep., VIII of 1868.
1818	I	Kánúngo, Twenty-four Parganas, &c.	Rep., XXIX of 1871.
	II	Ilaka of Khanda	Rep., XV of 1874.
	III	State Prisoners	Rep. in part, XVI of 1874.
	IV	Díwání Adálat, Saháranpur ...	Rep., XV of 1874.
	V	Commissioner, Zila Katak ...	Rep., VIII of 1868.
	VI	Prisoners: Courts of Circuit ...	Rep., XVII of 1862.
	VII	Foreign Trade	Rep., Reg. II of 1830.
	VIII	Security for good behaviour ...	Rep., XVII of 1862.
	IX	Settlement, Conq. Provinces ...	Rep., VIII of 1868.
	X	Collection of Revenue, Katak ...	Rep., XI of 1859.
	XI	Modifying Reg. XIII of 1816 ...	Rep., XXI of 1856.
	XII	Housebreaking	Rep., XVII of 1862.
	XIII	Settlement, Katak	Rep., VIII of 1868.
	XIV	Calcutta Sikka rupee and goldmohur	Rep., XXIII of 1870.
1819	I	Dinajpur, Rangpur, Gorakhpur	Rep. in part, XII of 1873; locally, XIX of 1873.
	II	Resumption of revenue ...	Rep. in part, XII of 1873; XVI of 1874; XII of 1876; locally, XIX of 1873; in part, locally, Ben. Act VII of 1862.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1819	III	Security from robbers ...	Rep., XVII of 1862.
	IV	Revenue Board	Rep., XLIV of 1850.
	V	Mint	Rep., XXIII of 1870.
	VI	Ferries: Police	Rep. in part, XVI of 1874; XII of 1876; locally, Ben. Act I of 1866.
	VII	Abduction	Rep., XVII of 1862.
	VIII	Patní taluqs, Ben. and Mednípur	Rep. in part, XXV of 1850; X of 1859; XVI of 1874; Ben. Act VIII of 1865.
	IX	Special appeals, &c.	Rep., X of 1861.
	X	Salt, B. B. O. Ben. Kat. ...	Rep., VIII of 1875.
	XI	Silver coinage	Rep., VIII of 1868.
1820	I	Sales of taluqs for arrears of rent, Ben. and Medn.	
	II	Offences in Chandernagore and Chinsurah.	Rep., XVI of 1874.
	III	Pressing coolies	Rep., XXIX of 1871.
	IV	Execution of certain military sentences.	Rep., XVII of 1862.
	V	Duty on Tobacco	Rep., VIII of 1868.
	VI	Repealing Reg. XLV of 1803 in part.	Rep., VIII of 1868.
	VII	Dharná	Rep., XVII of 1862.
1821	I	Special Commission, Ceded and Conq. Provs.	Rep., VIII of 1868.
	II	Civil Procedure	Rep., X of 1861.
	III	Criminal jurisdiction: Chaukídárs.	Rep., XVII of 1862.
	IV	Magistrates	Rep. in part, XII of 1873; XVI of 1874; XII of 1876; locally, XIX of 1873.
	V	Rupees	Rep., VIII of 1868.
1822	I	Amending Reg. XLIX of 1793, &c.	Rep., XVII of 1862.
	II	Customs-officers	Rep., XXIX of 1871.
	III	Board of Revenue	Rep. in part, XVI of 1874; locally, XIX of 1873.
	IV	Criminal Procedure	Rep., XVII of 1862.
	V	Amending Reg. IX of 1808 ...	Rep., VIII of 1868.
	VI	Court of Wards, Benares ...	Rep., XIX of 1873.

Year	Number.	Subject-matter.	How repealed or otherwise determined.
1822	VII	Settlement, Ceded and Conq. Provs., Katak.	Rep. in part, XXV of 1837; X of 1859; XX of 1865; XVI of 1874; XII of 1876; locally, XIX of 1873; in part, Reg. IX of 1833.
	VIII	Criminal Procedure: Venue ...	Rep., XVII of 1862.
	IX	Aliens	Rep., I of 1849.
	X	Gáro Hillmen	Rep., XXII of 1869.
	XI	Sale of land for arrears of revenue	Rep. in part, XII of 1841; locally, XIX of 1873.
1823	I	Amending Reg. I of 1821 ...	Rep., VIII of 1868.
	II	Suppression of affrays ...	Rep., XVII of 1862.
	III	Printing Presses	Rep., XI of 1835.
	IV	Criminal Procedure	Rep., XVII of 1862.
	V	Customs	Rep., VIII of 1868.
	VI	Indigo-suits, Bengal ...	Rep. in part, X of 1836; VII of 1870; XVI of 1874; XII of 1876.
	VII	Loans to Covenanted Civil Servants	Rep. in part, XVI of 1874.
1824	I	Acquisition of land for public purposes.	Rep., VIII of 1868.
	II	Farakhábád rupee	Rep., VIII of 1868.
	III	Jurisdiction of Registrar ...	Rep., X of 1861.
	IV	Registrar of Deeds	Rep., XVI of 1864.
	V	Extending Reg. VI of 1823 ...	Rep., XV of 1874.
	VI	Criminal Procedure	Rep., XVII of 1862.
	VII	Manufacture and sale of opium...	Rep. in part, XXI of 1856; Residue rep., XIII of 1857.
	VIII	River-tolls, Bengal	Rep., XII of 1873.
	IX	Settlement, Conq. Provs. and Bundelkhand.	Rep. in part, VIII of 1868; Residue rep., XIX of 1873.
	X	Pardon of accomplices ...	Rep., XVII of 1862.
	XI	Local investigations... ...	Rep., XXIX of 1871.
	XII	Penalty on revenue-defaulters ...	Rep., Reg. VII of 1830.
	XIII	Sadr Amíns	Rep., X of 1861.
	XIV	Summary Rent-suits ...	Rep., X of 1859.
	XV	Forcible dispossession ...	Rep., IV of 1840.
	XVI	Stamp-duties	Rep., X of 1829.
1825	I	Criminal Procedure	Rep., XVII of 1862.
	II	Reviews and Special appeals ...	Rep., X of 1861.
	III	Sentences of Courts of Circuit ...	Rep., Reg. XVI of 1825.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1825	IV	Security for keeping peace and for good behaviour.	Rep., XVII of 1862.
	V	Union of powers of Judge and Collector.	Rep., VIII of 1868.
	VI	Passage of troops ...	Rep. in part, XII of 1876.
	VII	Execution of decrees ...	Rep., XVI of 1874.
	VIII	Native officers: False charges ...	Rep., XXIX of 1871.
	IX	Extending Reg. VII of 1822, Leases by Revenue-authority.	Rep. in part, XX of 1865; locally, XIX of 1873.
	X	Commercial Residents ...	Rep., VIII of 1868.
	XI	Alluvion and diluvion.	
	XII	Criminal Procedure	Rep., XVII of 1862.
	XIII	Kánúngos	Rep. locally, XIX of 1873.
	XIV	Lákhiráj tenures	Rep. locally, XIX of 1873; in part, XII of 1873; XVI of 1874.
	XV	Customs-duties and drawbacks ...	Rep., XVI of 1874.
	XVI	Sentences by Courts of Circuit ...	Rep., XVII of 1862.
	XVII	Gorakhpur Zila	Rep., Reg. I of 1829, s. 5.
	XVIII	Chinsurah	Rep., XII of 1876.
	XIX	Názim of Bengal	Rep., XXVII of 1854.
	XX	Courts Martial and Military Courts of Requests.	Rep. in part, XI of 1841; XVI of 1874.
	XXI	Dehra Dún	Rep., XV of 1874.
1826	I	Provincial Courts of Appeal ...	Rep., VIII of 1868.
	II	Settlement, Ceded Provinces ...	Rep., VIII of 1868.
	III	Prisoners in Civil Jails ...	Rep. locally, Bengal Act II of 1864; Rep. elsewhere, XXVI of 1870.
	IV	Special Commissions ...	Rep., VIII of 1868.
	V	Pargana of Gobardhan ...	Rep., XV of 1874.
	VI	Fathipur Zila	Rep., XV of 1874.
	VII	Benares Mint	Rep., VIII of 1868.
	VIII	Contraband opium	Rep., XXI of 1856.
	IX	Board of Customs	Rep., XXIX of 1871.
	X	Salt	Rep., VIII of 1875.
	XI	Native law-officers	Rep., XI of 1864.
	XII	Stamps, Calcutta	Rep., XXXVI of 1860.
1827	I	Criminal law, Bhágalpur ...	Rep., XXIX of 1871.
	II	Criminal trials, Bareli ...	Rep., VIII of 1868.
	III	Extortion by Native officers ...	Rep. in part, XI of 1864; XVI of 1874; XII of 1876.
	IV	Sadr Amíns	Rep., X of 1861.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1827	V	Management of estates under attachment.	Rep. in part, XVI of 1874.
1828	I	Commutation of sentences of certain convicts.	Rep., XVII of 1862.
	II	Rescinding parts of Reg. I of 1799	Rep., VIII of 1868.
	III	Special Commissioners ...	Rep. locally, XIX of 1873; in part, XII of 1873; XVI of 1874; XII of 1876.
	IV	Power of Collectors in making or revising settlements.	Rep. in part, XVI of 1874; XII of 1876; Reg. IX of 1833, s. 4; locally, XIX of 1873.
	V	Awards of Military Courts ...	Rep., XI of 1841.
	VI	Explaining Reg. II of 1823 ...	Rep., XVII of 1862.
	VII	Rájá of Benares.	
	VIII	Magistrates' powers	Rep., XVII of 1862.
	IX	Pauper-appeals	Rep., XXIX of 1871.
1829	I	Board of Revenue: Administration of justice.	Rep. in part, XVI of 1874; Reg. I of 1830; Reg. VI of 1831, s. 8; Reg. X of 1831, s 4; locally, XIX of 1873.
	II	Orders of Magistrates under Reg. XV of 1824.	Rep., IV of 1840.
	III	Sadr Díwání and Nizámat Adálat	Rep., XXIX of 1871.
	IV	Appeals under Reg. III of 1828	Rep., XII of 1876.
	V	Repealing in part Regs. X of 1817 and XXI of 1825.	Rep., XV of 1874.
	VI	Powers of Magistrates ...	Rep., XVII of 1862.
	VII	Statements by civil and criminal authorities.	Rep., XVII of 1862.
	VIII	Amending Regs. V of 1809 and I of 1822.	Rep., I of 1849.
	IX	Commercial Agents	Rep., VIII of 1868.
	X	Stamps	Rep., XXXVI of 1860.
	XI	Embankments	Rep., XII of 1876.
	XII	Modifying Reg. XII of 1825 ...	Rep., XVII of 1862.
	XIII	Legal Remembrancer ...	Rep., VIII of 1868.
	XIV	Security from foreign litigants ...	Rep., X of 1861.
	XV	Assessment of Customs-duties ...	Rep., XVI of 1874.
	XVI	Salt-duty	Rep., XIV of 1843.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1829	XVII	Satí	Rep. in part, XVII of 1862.
	XVIII	Repealing Reg. IV of 1829, s. 3.	Rep., VIII of 1868.
1830	I	Repealing Reg. I of 1829 in part...	Rep., VIII of 1868.
	II	Foreign trade	Rep., XXIX of 1871.
	III	Customs-duties	Rep., XVI of 1874.
	IV	Explaining Reg. I of 1829, s. 3...	Rep., XVII of 1862.
	V	Indigo-contracts	Rep. in part, XVI of 1835; III of 1857; VIII of 1868.
	VI	Subsistence-allowance of debtors ...	Rep., X of 1861.
	VII	Interest on arrears of revenue ...	Rep., XII of 1841.
	VIII	Inquiries by Magistrates ...	Rep., XVII of 1862.
1831	I	Repealing Reg. XVI of 1825, s. 3, cl. 2.	Rep., VIII of 1868.
	II	Legalizing certain trials ...	Rep., VIII of 1868.
	III	Copper coinage	Rep., VIII of 1868.
	IV	Amending Straits Reg. V of 1830	Rep., XIV of 1851.
	V	Munsifs and Sadr Amíns and Principal Sadr Amíns.	Rep., XVI of 1868.
	VI	Appellate Judges at Allahábád...	Rep. in part, XVII of 1862; VIII of 1868; XVI of 1874.
	VII	Jail-deliveries	Rep., VIII of 1868.
	VIII	Summary suits for arrears of rent	Rep. locally, X of 1859.
	IX	Sadr Díwání and Nizámat Adálat	Rep., VIII of 1868.
	X	Revenue Board, North-Western Provinces.	Rep. locally, XIX of 1873.
	XI	Police-powers of Tahsíldárs, Ced. and Conq. Provinces.	Rep. in part, XVI of 1854; XVI of 1874; XII of 1876.
1832	I	Bájí Rau's jágír	Rep., IX of 1852.
	II	Criminal Procedure ...	Rep., VIII of 1868.
	III	Slavery	Rep., VIII of 1868.
	IV	Explaining Reg. X of 1819, s. 41	Rep., VIII of 1875.
	V	Delhi territory	Rep., XII of 1876.
	VI	Native Assessors	Rep., XVI of 1874.
	VII	Modifying Reg. V of 1831 ...	Rep., VI of 1871.
	VIII	Repealing Reg. XIV of 1814 ...	Rep., XV of 1874.
1833	I	Board of Revenue, Allahábád ...	Rep., VIII of 1875.
	II	Provincial Courts of Appeal ...	Rep., VIII of 1868.
	III	Registry of Imports and Exports, Straits.	Rep. in part, XXII of 1855.
	IV	Convict labourers	Rep. locally, XXVI of 1870.
	V	District of Dháká	Rep., XV of 1874.
	VI	Customs-duties	Rep., XVI of 1874.
	VII	Rupees: Unit of weight ...	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1833	VIII	Additional Judges	Rep., VI of 1871.
	IX	Settlement-Officers; Revenue; Málikána.	Rep. locally, XIX of 1873; in part, X of 1859; X of 1873; XVI of 1874.
	X	Sale of spirits of European manufacture (Straits).	Rep., XIV of 1851.
	XI	Pawnbrokers' shops (Straits) ...	Rep., XL of 1850.
	XII	Pleaders	Rep., I of 1846.
	XIII	Zilas of Rámgarh, Jungle Maháls and Medníipur.	Rep., XII of 1876.
1834	I	Town-duties, Calcutta ...	Rep., VIII of 1868.
	II	Abolition of corporal punishment	Rep. in part, XVII of 1862; Residue rep. locally, XXVI of 1870; Rep. in part, locally, Bengal Act II of 1864.

THE LOWER PROVINCES CODE.

PART I:

THE BENGAL REGULATIONS IN FORCE IN THE LOWER PROVINCES.

REGULATION I OF 1793.

Passed on the 1st of May 1793.

A Regulation for enacting into a Regulation, certain Articles of a Proclamation, bearing date the 22nd March, 1793.[a]

Preamble.

1. THE following articles of the proclamation relative to the limitation of the public demand upon the lands, addressed by the Governor General in Council to the zamíndárs, independent taluqdárs, and other actual proprietors of land paying revenue to Government, in the Provinces of Bengal, Bihár and Orissa, are hereby enacted into a Regulation, which is to have force and effect from the 22nd March 1793, the date of the proclamation.

PROCLAMATION.

Decennial settlement declared conditionally permanent by original Regulations.

2. Art. I.—In the original Regulations for the decennial settlement of the public revenues of Bengal, Bihár and Orissa, passed for those Provinces respectively on the 18th September, 1789, the 25th November, 1789 and the 10th February, 1790, it was notified to the proprietors of land, with or on behalf of whom a settlement might be concluded, that the jama assessed upon their lands under those Regulations would be continued after the expiration of the ten years, and remain unalterable for ever, provided such continuance should meet with the approbation of the Honourable Court of Directors for the affairs of the East India Company, and not otherwise.

Power to declare jama assessed upon

3. Art. II.—The Marquis Cornwallis, Knight of the Most Noble Order of the Garter, Governor General in Council, now notifies to all zamíndárs, inde-

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

lands under those Regulations, fixed for ever.

pendent taluqdárs and other actual proprietors of land paying revenue to Government, in the provinces of Bengal, Bihár and Orissa, that he has been empowered by the Honourable Court of Directors for the affairs of the East India Company to declare the jama, which has been or may be assessed upon their lands under the Regulations above-mentioned, fixed for ever.

Jama assessed upon lands of proprietors with whom settlement concluded, fixed for ever.

4. Art. III.—The Governor General in Council accordingly declares to the zamíndárs, independent taluqdárs and other actual proprietors of land, with or on behalf of whom a settlement has been concluded under the Regulations above-mentioned, that at the expiration of the term of the settlement, no alteration will be made in the assessment which they have respectively engaged to pay, but that they, and their heirs and lawful successors, will be allowed to hold their estates at such assessment for ever.

Jama hereafter agreed to by proprietors whose lands are held khás, or let in farm, fixed for ever.

5. Art. IV.—The lands of some zamíndárs, independent taluqdárs and other actual proprietors of land, having been held khás, or let in farm, in consequence of their refusing to pay the assessment required of them under the Regulations above-mentioned, the Governor General in Council now notifies to the zamíndárs, independent taluqdárs and other actual proprietors of land whose lands are held khás, that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which has been or may be required of them, in conformity to the Regulations above-mentioned, and that no alteration shall afterwards be made in that assessment, but that they, and their heirs and lawful successors, shall be permitted to hold their respective estates at such assessment for ever:

and he declares to the zamíndárs, independent taluqdárs and other actual proprietors of land, whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their lease, and the Governor General in Council shall approve of the transfer), but that at the expiration of that period, upon their agreeing to the payment of the assessment which may be required of them, they shall be reinstated, and that no alteration shall afterwards be made in that assessment, but that they, and their heirs and lawful successors, shall be allowed to hold their respective estates at such assessment for ever.

Jama of lands belonging to Government, but transferred to individuals, fixed for ever.

6. Art. V.—In the event of the proprietary right in lands that are, or may become, the property of Government being transferred to individuals, such individuals, and their heirs and lawful successors, shall be permitted to hold the lands at the assessment at which they may be transferred for ever.

Assessment in former times liable to

7. Art. VI.—It is well known to the zamíndárs, independent taluqdárs and other actual proprietors of land, as well as to the inhabitants of Bengal,

Bihár and Orissa, in general, that from the earliest times until the present period, the public assessment upon the lands has never been fixed, but that, according to established usage and custom, the rulers of these provinces have from time to time demanded an increase of assessment from the proprietors of land; and that, for the purpose of obtaining this increase, not only frequent investigations have been made to ascertain the actual produce of their estates, but that it has been the practice to deprive them of the management of their lands, and either to let them in farm, or to appoint officers on the part of Government to collect the assessment immediately from the raiyats.

variation at discretion of Government.

The Honourable Court of Directors, considering these usages and measures to be detrimental to the prosperity of the country, have, with a view to promote the future ease and happiness of the people, authorized the foregoing declarations; and the zamíndárs, independent taluqdárs and other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded, are to consider these orders fixing the amount of the assessment as irrevocable, and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the administration of their affairs in this country.

Motives of Court of Directors for abolishing usage and fixing assessment.

The Governor General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs or successors, by the present or any future Government, for an augmentation of the public assessment in consequence of the improvement of their respective estates.

Proprietors expected to improve estates.

To discharge the revenues at the stipulated periods without delay or evasion, and to conduct themselves with good faith and moderation towards their dependent taluqdárs and raiyats, are duties at all times indispensably required from the proprietors of land, and a strict observance of those duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued.

Conduct to be observed by proprietors towards dependent taluqdárs and raiyats.

The Governor General in Council therefore expects that the proprietors of land will not only act in this manner themselves towards their dependent taluqdárs and raiyats, but also enjoin the strictest adherence to the same principles in the persons whom they may appoint to collect the rents from them.

He further expects that, without deviating from this line of conduct, they will regularly discharge the revenue in all seasons; and he accordingly notifies to them, that, in future, no claims or applications for suspensions or remissions, on account of drought, inundation or other calamity of season, will be attended

No claims for remissions or suspensions.

to, but that in the event of any zamíndár, independent taluqdár or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, or his or her heirs or successors failing in the punctual discharge of the public revenue which has been or may be assessed upon their lands under the above-mentioned Regulations, a sale of the whole of the lands of the defaulter, or such portion of them as may be sufficient to make good the arrear, will positively and invariably take place.

Sale of lands for arrears.

8. Art. VII.—To prevent any misconstruction of the foregoing articles, the Governor Genêral in Council thinks it necessary to make the following declarations to the zamíndárs, independent taluqdárs and other actual proprietors of land.

Regulations for protection of raiyats, &c.

First.—It being the duty of the ruling power to protect all classes of people, and more particularly those who from their situation are most helpless, the Governor General in Council will, whenever he may deem it proper, enact such Regulations as he may think necessary for the protection and welfare of the dependent taluqdárs, raiyats and other cultivators of the soil; and no zamíndár, independent taluqdár or other actual proprietor of land, shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay.

Right of Government to all internal duties.

Second.—The Governor General in Council having, on the 28th July, 1790, directed the sáir collections to be abolished, a full compensation was granted to the proprietors of land for the loss of revenue sustained by them in consequence of this abolition; and he now declares, that if he should hereafter think it proper to re-establish the sáir collections, or any other internal duties, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

And to jama on alienated lands.

Third.—The Governor General in Council will impose such assessment as he may deem equitable, on all lands at present alienated and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles.

The assessment so imposed will belong to Government, and no proprietor of land will be entitled to any part of it.

Resumption of police allowances to proprietors.

Fourth.—The jama of those zamíndárs, independent taluqdárs and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of, any allowances which have been made to them in the adjustment of their jama, for keeping up thánas or police-establishments, and also of the produce of any lands which they may have been permitted to appropriate for the same purpose; and the Governor General in Council reserves to himself the option of resuming the

whole or part of such allowances, or produce of such lands, according as he may think proper, in consequence of his having exonerated the proprietors of land from the charge of keeping the peace, and appointed officers on the part of Government to superintend the police of the country.

The Governor General in Council, however, declares that the allowances or produce of lands which may be resumed will be appropriated to no other purpose but that of defraying the expense of the police; and that instructions will be sent to the Collectors, not to add such allowances, or the produce of such lands, to the jama of the proprietors of land, but to collect the amount from them separately.

Estates of disqualified proprietors not liable to sale for arrears.

Fifth.—Nothing contained in this proclamation shall be construed to render the lands of the several descriptions of disqualified proprietors, specified in the first article of the Regulations regarding disqualified landholders, passed on the 15th July, 1791, liable to sale for any arrears which have accrued or may accrue on the fixed jama that has been or may be assessed upon their lands under the above-mentioned Regulations for the decennial settlement; provided that such arrears have accrued or may accrue during the time that they have been or may be dispossessed of the management of their lands, under the said Regulations of the 15th July, 1791.

It is to be understood, however, that whenever all or any of the descriptions of disqualified landholders, specified in the first article of the last-mentioned Regulations, shall be permitted to assume or retain the management of their lands, in consequence of the ground of their disqualification no longer existing, or of the Governor General in Council dispensing with, altering or abolishing those Regulations, the lands of such proprietors will be held responsible for the payment of the fixed jama that has been or may be assessed thereon, from the time that the management may devolve upon them, in the same manner as the lands of all actual proprietors of land who are declared qualified for the management of their estates, and also of all actual proprietors who are unqualified for such management, by natural or other disabilities, but do not come within the descriptions of disqualified landholders specified in the first article of the Regulations of the 15th July, 1791, are and will be held answerable for any arrears that are or may become due from them, on the fixed jama which they, or any persons on their behalf, have engaged or may engage to pay, under the above-mentioned Regulations, for the decennial settlement.

Proprietors may transfer lands without sanction of Government.

9. Art. VIII.—That no doubt may be entertained whether proprietors of land are entitled, under the existing Regulations, to dispose of their estates without the previous sanction of Government, the Governor General in Council notifies to the zamíndárs, independent taluqdárs and other actual proprietors of land, that they are privileged to transfer to whomsoever they may think proper,

by sale, gift or otherwise, their proprietary rights in the whole or any portion of their respective estates, without applying to Government for its sanction to the transfer, and that all such transfers will be held valid, provided that they be conformable to the Muhammadan or the Hindú laws (according as the religious persuasions of the parties to each transaction may render the validity of it determinable by the former or the latter Code), and that they be not repugnant to any Regulations now in force, which have been passed by the British administrations, or to any Regulations that they may hereafter enact.

Proviso.

Rules for apportioning fixed jama on portions of estates in event of sale or transfer, and on shares of estates.

10.[a] Art. IX.—From the limitation of the public demand upon the lands, the nett income, and consequently the value (independent of increase of rent obtainable by improvements), of any landed property, for the assessment on which a distinct engagement has been or may be entered into, between Government and the proprietor, or that may be separately assessed, although included in one engagement with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable by a comparison of the amount of the fixed jama assessed upon it (which, agreeable to the foregoing declarations, is to remain unalterable for ever, to whomsoever the property may be transferred), with the whole of its produce, allowing for the charges of management.

But it is also essential that a notification should be made of the principles upon which the fixed assessment charged upon any such estate will be apportioned on the several divisions of it, in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one, or in two or more lots, or of its being joint property, and a division of it being made amongst the proprietors; otherwise, from the want of a declared rule for estimating the proportion of the fixed jama with which the several shares would be chargeable in such cases, the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the public assessment upon the lands would be but partially obtained.

The Governor General in Council has accordingly prescribed the following rules for apportioning the fixed assessment in the several cases above-mentioned; but as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment, were the apportioning of it, in any of the cases above specified, to be left to the proprietors, he requires that all such transfers or divisions as may be made by the private act of the parties themselves be notified to the Collector of the Revenue of the zila in which the lands may be situated, or such other officer as Government may in future

[a] So much of this and the following section as relates to the adjustment of the jama on lands sold in satisfaction of decrees was repealed by Act No. IV of 1846, section 1.

prescribe, in order that the fixed jama, assessed upon the whole estate, may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share, and the jama charged thereon, may be entered upon the public registers, and that separate engagements for the payment of the jama assessed upon each share may be executed by the proprietors, who will thenceforward be considered as actual proprietors of land.

And the Governor General in Council declares, that if the parties to such transfers or divisions shall omit to notify them to the Collector of the Revenue of the zila or such other officer as may be hereafter prescribed, for the purposes before-mentioned, the whole of such estate will be held responsible to Government for the discharge of the fixed jama assessed upon it, in the same manner as if no such transfer or division had ever taken place.

The Governor General in Council thinks it necessary further to notify, in elucidation of the declarations contained in this article (which are conformable to the principles of the existing Regulations), that if any zamíndár, independent taluqdár or other actual proprietor of land, shall dispose of a portion of his or her lands as a dependent taluq, the jama which may be stipulated to be paid by the dependent taluqdár will not be entered upon the records of Government, nor will the transfer exempt such lands from being answerable, in common with the remainder of the estate, for the payment of the public revenue assessed upon the whole of it, in the event of the proprietor, or his or her heirs or successors, falling in arrear from any cause whatever, nor will it be allowed, in any case, to affect the rights or claims of Government, any more than if it had never taken place.

First.—In the event of the whole of the lands of a zamíndár, independent taluqdár or other actual proprietor of land, with or on behalf of whom a settlement has been, or may be concluded, under the Regulations above-mentioned, being exposed to public sale by the order of the Governor General in Council, for the discharge of arrears of assessment, or in consequence of the decision of a Court of Justice, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce,[a] as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce.

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter adopt, and the purchaser or purchasers of such lands, and his, or her, or their heirs and lawful successors, shall hold them at the jama at which they may be so purchased, for ever.

[a] See Regulation I of 1801, s. 8.

Second.—When a portion of the lands of a zamíndár, independent taluqdár or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the Regulations before-mentioned, shall be exposed to public sale, by order of the Governor General in Council, for the liquidation of arrears of assessment, or pursuant to the decision of a Court of Justice, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce,[a] as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce.[b]

If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce, as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce.[c]

The actual produce[d] of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter enact, and the purchaser or purchasers of such lands, and his, or her, or their heirs or successors, will be allowed to hold them at the jama at which they may be so purchased for ever; and the remainder of the public jama, which will consequently be payable by the former proprietor of the whole estate, on account of the portion of it that may be left in his or her possession, will continue unalterable for ever.

Third.—When a zamíndár, independent taluqdár or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or her estate, in two or more distinct portions, to two or more persons, or a portion thereof to one person, or to two or more persons in joint property, by private sale, gift or otherwise, the assessment upon each distinct portion of such estate, so transferred, shall be fixed at an amount which shall bear the same proportion to its actual produce,[e] as the assessment upon the whole of the estate of the transferring proprietor, of which the whole or a portion may be so transferred, may bear to the whole of its actual produce.[f]

This produce shall be ascertained in the mode that is or may be prescribed in the existing Regulations, or such other Regulations as Government may hereafter adopt, and the person or persons to whom such lands may be transferred, and his, or her, or their heirs and lawful successors, shall hold them at

a, b, c, d, e, f See Regulation I of 1801, s. 8.

the jama at which they may be so transferred, for ever: and where only a portion of such estates shall be transferred, the remainder of the public jama which will consequently be payable by the former proprietor of the whole estates on account of the lands that may remain in his or her possession, shall be continued unalterable for ever.

Fourth.—Whenever a division shall be made of lands, the settlement of which has been or may be concluded with or on behalf of the proprietor or proprietors, and that are or may become the joint property of two or more persons, the assessment upon each share shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed jama assessed upon the whole of the estate divided may bear to the whole of its actual produce.

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter adopt, and the sharers, and their heirs and lawful successors, shall hold their respective shares at the jama which may be so assessed upon them, for ever.

Adjusting jama of land held khás or let in farm.

11.[a] Art. X.—The following rules are prescribed respecting the adjustment of the assessment on the lands of zamíndárs, independent taluqdárs and other actual proprietors of land, whose lands are or may be held khás or let in farm, in the event of their being disposed of by public sale, or transferred by any private act of the proprietor, or of their being joint property, and a division of them taking place amongst the proprietors.

First.—If the whole, or a portion of the lands of a zamíndár, independent taluqdár or other actual proprietor of land, who may not have agreed to the payment of the assessment proposed to him or her under the Regulations abovementioned, and whose lands are or may be held khás or let in farm, shall be exposed to public sale, in one or in two or more lots (pursuant to the decree of a Court of Justice), such lands, if khás, shall be disposed of at whatever assessment the Governor General in Council may deem equitable, and the purchaser or purchasers of such lands, and his, or her or their heirs and lawful successors, shall hold the lands at the assessment at which they may be so purchased, for ever.

If the lands, at the time of their being exposed to sale, shall be held in farm, and shall be put up in one or in two or more lots, they shall be disposed of under the following conditions:—

The purchaser or purchasers shall receive, during the unexpired part of the term of the lease of the farmer, whatever such proprietor shall have been

[a] See note on section 10.

entitled to receive, in virtue of his or her proprietary rights, on account of the lands so purchased, and such purchaser or purchasers shall engage to pay, at the expiration of the lease of the farmer, such assessment on account of the lands as Government may deem equitable.

The sum to be received by the purchaser or purchasers during the unexpired part of the term of the lease of the farmer, and the jama to be paid by such purchaser or purchasers after the expiration of the lease, shall be specified at the time of the sale, and such purchaser or purchasers, and his, or her or their heirs and lawful successors, shall be allowed to hold the lands at the assessment at which they may be so purchased, for ever.

Second.—If a zamíndár, independent taluqdár or other actual proprietor of land, whose lands are or may be held khás or let in farm, shall transfer by private sale, gift or otherwise, the whole or a portion of his or her lands in one or in two or more lots, the person or persons to whom the lands may be so transferred, shall be entitled to receive from Government (if the lands are held khás), or from the farmer (if the lands are let in farm), the málikána to which the former proprietor was entitled on account of the lands so transferred.

Persons to whom such lands may be so transferred will stand in the same predicament as the zamíndárs, independent taluqdárs or other actual proprietors of land mentioned in the fourth article, whose lands are held khás, or have been let in farm, in consequence of their refusing to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement; and the declarations contained in that article are to be held applicable to them.

Third.—In the event of a division being made of lands that are or may become the joint property of two or more persons, and which are or may be held khás or let in farm, the proprietors of the several shares will stand in the same predicament, with regard to their respective shares, as the zamíndárs, independent taluqdárs and other actual proprietors of land specified in the fourth article, whose lands have been let in farm or are held khás, in consequence of their having refused to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement; and the declarations contained in that article are to be considered applicable to them.

REGULATION II OF 1793.

Passed on the 1st of May 1793.

A Regulation for abolishing the Courts of Mál Adálat or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts to the Courts of Díwání Adálat; and prescribing Rules for the conduct of the Board of Revenue and the Collectors.[a]

Preamble.

1. In the British territories in Bengal the greater part of the materials required for the numerous and valuable manufactures, and most of the other principal articles of export, are the produce of the lands: it follows that the commerce, and consequently the wealth of the country, must increase in proportion to the extension of its agriculture.

But it is not for commercial purposes alone that the encouragement of agriculture is essential to the welfare of these Provinces.

The Hindús, who form the body of the people, are compelled, by the dictates of religion, to depend solely upon the produce of the lands for subsistence; and the generality of such of the lower orders of the Natives as are not of that persuasion, are, from habit or necessity, in a similar predicament.

The extensive failure or destruction of the crops that occasionally arises from drought or inundation, is in consequence invariably followed by famine, the ravages of which are felt chiefly by the cultivators of the soil and the manufacturers, from whose labours the country derives both its subsistence and wealth.

Experience having evinced that adequate supplies of grain are not obtainable from abroad in seasons of scarcity, the country must necessarily continue subject to these calamities, until the proprietors and cultivators of the lands shall have the means of increasing the number of the reservoirs, embankments and other artificial works, by which, to a great degree, the untimely cessation of the periodical rains may be provided against, and the lands protected from inundation; and as a necessary consequence, the stock of grain in the country at large shall always be sufficient to supply those occasional, but less extensive, deficiencies in the annual produce, which may be expected to occur, notwithstanding the adoption of the above precautions to obviate them.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874. The portions repealed by Acts No. XXV of 1854, No. VIII of 1868, No. XXVI of 1871, No. XII of 1873, No. XVI of 1874, No. XII of 1876, and by Regulations V of 1804, XV of 1813 and III of 1822 have been omitted.

So much of this Regulation as requires the appointment of díwáns in the different districts, or defines the duties of the díwáns, or relates in any other manner, directly or indirectly, to those officers, is superseded by section 2, Regulation XV of 1813.

To effect these improvements in agriculture, which must necessarily be followed by the increase of every article of produce, has accordingly been one of the primary objects to which the attention of the British Administration has been directed, in its arrangements for the internal government of these Provinces.

As being the two fundamental measures essential to the attainment of it, the property in the soil has been declared to be vested in the landholders, and the revenue payable to Government from each estate has been fixed for ever.

These measures have at once rendered it the interest of the proprietors to improve their estates, and given them the means of raising the funds necessary for that purpose.

The property in the soil was never before formally declared to be vested in the landholders, nor were they allowed to transfer such rights as they did possess, or raise money upon the credit of their tenures, without the previous sanction of Government.

With respect to the public demand upon each estate, it was liable to annual or frequent variation at the discretion of Government.

The amount of it was fixed upon an estimate formed by the public officers of the aggregate of the rents payable by the raiyats or tenants for each bígha of land in cultivation, of which, after deducting the expenses of collection, ten-elevenths were usually considered as the right of the public, and the remainder the share of the landholder.

Refusal to pay the sum required of him was followed by his removal from the management of his lands, and the public dues were either let in farm or collected by an officer of Government, and the above-mentioned share of the landholder, or such sum as special custom, or the orders of Government, might have fixed, was paid to him by the farmer or from the public treasury.

When the extension of cultivation was productive only of a heavier assessment, and even the possession of the property was uncertain, the hereditary landholder had little inducement to improve his estate, and monied men had no encouragement to embark their capital in the purchase or improvement of land, whilst not only the profit, but the security for the capital itself, was so precarious.

The same causes, therefore, which prevented the improvement of land, depreciated its value.

Further measures, however, are essential to the attainment of the important object above stated.

All questions between Government and the landholders respecting the assessment and collection of the public revenue, and disputed claims between the latter and their raiyats, or other persons concerned in the collection of their

rents, have hitherto been cognizable in the Courts of Mál Adálat, or Revenue Courts.

The Collectors of the Revenue preside in these Courts as Judges, and an appeal lies from their decision to the Board of Revenue, and from the decrees of that Board to the Governor General in Council in the Department of Revenue.

The proprietors can never consider the privileges which have been conferred upon them as secure, whilst the revenue-officers are vested with these judicial powers.

Exclusive of the objections arising to these Courts from their irregular, summary, and often *ex parte*, proceedings, and from the Collectors being obliged to suspend the exercise of their judicial functions whenever they interfere with their financial duties, it is obvious that, if the Regulations for assessing and collecting the public revenue are infringed, the revenue-officers themselves must be the aggressors, and that individuals who have been wronged by them in one capacity, can never hope to obtain redress from them in another.

Their financial occupations equally disqualify them for administering the laws between the proprietors of land and their tenants.

Other security, therefore, must be given to landed property and to the rights attached to it, before the desired improvements in agriculture can be expected to be effected.

Government must divest itself of the power of infringing, in its executive capacity, the rights and privileges which, as exercising the legislative authority, it has conferred on the landholders.

The revenue-officers must be deprived of their judicial powers.

All financial claims of the public, when disputed under the Regulations, must be subjected to the cognizance of Courts of Judicature, superintended by Judges who, from their official situations and the nature of their trusts, shall not only be wholly uninterested in the result of their decisions, but bound to decide impartially between the public and the proprietors of land, and also between the latter and their tenants.

The Collectors of the Revenue must not only be divested of the power of deciding upon their own acts, but rendered amenable for them to the Courts of Judicature, and collect the public dues subject to a personal prosecution for every exaction exceeding the amount which they are authorized to demand on behalf of the public, and for every deviation from the Regulations prescribed for the collection of it.

No power will then exist in the country, by which the rights vested in the landholders by the Regulations can be infringed or the value of landed property affected.

Land must, in consequence, become the most desirable of all property, and the industry of the people will be directed to those improvements in agriculture, which are as essential to their own welfare as to the prosperity of the State.

The following rules, being the rules passed for the guidance of the Collectors and the Board of Revenue, on the 8th June, 1787, and the 25th April, 1788, with alterations adapted to the principles above stated, have been accordingly enacted.

2.—[*Repealed by Act No. XII of 1873.*]

Collectors of Revenue.

3. The collection of the revenue payable to Government from the estates in each zila is to be committed, as heretofore, to a civil covenanted servant of the Company, who is to be styled Collector of the Revenue of the zila to which he may be appointed.

Collectors subject to Board of Revenue.

4. The Collectors are to correspond with the Board of Revenue, and to conform to all instructions with which they have been furnished by that Board, and that are or may not be altered or revoked by this or any other Regulation, and also to all instructions which the Board of Revenue may hereafter transmit to them.

Seals of Collectors.

5. The Collectors of the several zilas are to use a circular seal, one inch and a half in diameter.

The seals of the Collectors in Bengal and Orissa are to bear an inscription to the following effect, in the Bengal and Persian characters and languages, and the seals of the Collectors in Bihár a similar inscription, in the Persian character and language, and the Hindústání language and Nágarí character: "The seal of the Collector of the zila of"

Collectors to keep diary.

6. The Collectors are to keep a regular diary of their official transactions, either in the English, Persian or Bengal language, recording and attesting them with their official signature at the time they may take place.

Duties of Collectors.

7. The duties prescribed in the following section are to be performed by the Collectors under the superintendence of the Board of Revenue.

Nature of duties.

8. *First.*—To collect the amount of the fixed revenue assessed upon the lands of the zamíndárs, independent taluqdárs or other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded.

Second.—To collect the stipulated annual revenue from the farmers of estates let in farm.

Third.—To levy the rents and revenue from estates held khás.

Fourth.—To make the future settlement of khás, or farmed estates, agreeably to the regulations and instructions which they may receive for that purpose.

Fifth.—To prosecute for the recovery of the dues of Government from lands, of whatever description, held exempt from the payment of revenue, under illegal or invalid tenures.

Sixth.—To pay the pensions and allowances included in the public revenue, and the pensions and compensations granted in consequence of the abolition of the sáír.

Seventh.—To execute the instructions which may be issued to them by the Court of Wards, regarding disqualified landholders and their estates.

Eighth.—To superintend the division of landed property paying revenue to Government, which may be ordered to be divided into two or more distinct estates.

Ninth.—To apportion the public revenue on lands ordered to be disposed of at public sale for the discharge of arrears of revenue.

Tenth.—To collect the tax on spirituous liquors and intoxicating drugs or articles.

Eleventh and Twelfth.—[*Repealed by Act No. XVI of 1874.*]

Thirteenth.—To perform the above, and all other duties, according to the rules that have been or may be prescribed to them.

Fourteenth.—To transmit such annual, monthly or other accounts as they now furnish, or may be hereafter required to send by the Board of Revenue, or any officer under that Board empowered to require such accounts.

Fifteenth.—To conform to all special orders that have been or may be issued to them by the Board of Revenue, or by public officers empowered to issue such orders.

Native officers to obey orders of Collector.

9. All Native officers under the Collector, are to act agreeably to his orders and such rules as he may prescribe.

They are not to perform any act of authority without his sanction or authority, under pain of being fined in a sum not exceeding six months' salary, or of being dismissed from their offices by the Collector, the Board of Revenue, or the Governor General in Council, and also of being sued in the court of judicature for damages by any person who may consider himself aggrieved by such unauthorized act.

Collectors not to employ private servants in public matters.

10. The Collectors are prohibited from employing, directly or indirectly, their private servants, whether baniyás or others, in the discharge of any part of their public duties, it being required that, in all matters relating to the trust committed to them, they act as the only empowered agents of Government.

This prohibition, however, is not meant to restrict them from occasionally employing their assistants or their inferior public servants, in the cases and in the manner in which they are authorized to make use of their agency.

Appointment and removal of Native cash-keepers.

11. The khazánchi or Native cash-keeper in each zila, is to be nominated by the Collector, who is to take good and sufficient security from him for the faithful discharge of his trust, and for making good all deficiencies in the public money that may be committed to his charge.

The Collector is to transmit the names of the person whom he may nominate to the office of khazánchi, and of his surety, with a copy of the engagement, executed by the latter, to the Board of Revenue; but the person so nominated shall not be considered as appointed until the Board of Revenue shall have signified their approbation both of him and his surety.

The Native cash-keeper so appointed shall not be removed but for misconduct, or other sufficient cause, proved to the satisfaction of the Board of Revenue; and he and the Collector shall be held jointly and severally responsible to Government for the public money committed to their charge.

12.—[*Repealed by Act No. XXV of 1854.*]

Appointment and removal of Native servants.

13. *The appointment and dismission of all Native public servants on the establishments of the collectorships (the keepers of the Native records and the khazánchi excepted) are vested in the Collectors.*[a]

But they are to transmit to the Board of Revenue regular notice of all appointments and removals, and are to employ none but such public and registered officers in matters in any respect relating to their official duty, and are not, under any plea or pretext, to confer on their public officers any private trust relating to their personal concerns.

In absence of Collector, senior assistant to officiate.

14. In the event of the death or removal of a Collector, or of his absence from his station, the senior Assistant on the spot is to perform the duties of Collector, and the public officers of the collectorship are accordingly to obey his orders.

Collectors and their officers prohibited being concerned extra officially in revenues.

15. No Collector, Assistant to a Collector, or any Native in the employ of a Collector or of an assistant, shall hold, directly or indirectly, any farm, or be concerned on their private account in the collection or payment of the revenue of any lands in the zila, either as farmer, surety, or otherwise; and Native officers and private servants and dependants of Collectors and assistants are prohibited from purchasing, directly or indirectly, any land that the Collector may dispose of at public sale, under the penalty of forfeiting the property to Government, upon proof being made, to the satisfaction of the Governor General in Council, of the property having been so purchased.

Boná fide purchases of land at private sale by Collector's officers, &c.

16 The rules in the preceding section, however, are not to be considered to prohibit a Native officer of a Collector, or any private servant of a Collector or of an assistant, from purchasing *boná fide* the proprietary right in lands situated in the zila, by private sale.

17.—[*Repealed by Act No. VIII of 1868.*]

Collectors and their Assistants

18. No Collector,[b] Assistant shall, directly or indirectly, carry on any trade, or be concerned in any commercial transaction whatever.

[a] Repealed by Reg. V of 1804, sec. 3.
[b] *Sic.* Read 'or Assistant.'

This prohibition, with regard to Collectors and their assistants, is declared to extend to the purchase, directly or indirectly, of any goods or commodities in the British dominions in Bengal, for the purpose of remitting money to Europe. prohibited from trading.

19.—[*Repealed by Act No. XII of 1873.*]

20. The Collectors are to be careful that the accounts and records of their respective zilas are kept complete and duly preserved. Collectors to keep records.

21, 22.—[*Repealed by Act No. XVI of 1874.*]

23.—[*Repealed by Act No. XXVI of 1871.*]

24. The Collectors are prohibited deputing any person into the zila of any other Collector, or exercising any authority beyond the limits of their respective zilas, excepting in cases in which they may be authorized so to do by special orders from a competent authority. Collectors not to exercise authority beyond limits of their zilas without orders.

25. The Collectors are to give monthly receipts for all payments of revenue into their treasuries, specifying the date or dates on which the money may be received. Rule with regard to receipts.

The keepers of the Native records are to keep a register of these receipts regularly numbered.

After having registered the receipts, they are to attest on the face of them the date on which they may be registered.

A copy of this register is to be transmitted monthly to the Board of Revenue, or as often as that Board may require.

A similar register of receipts is to be kept by all tahsíldárs, sazáwals or other Native officers entrusted with the immediate collection of the public revenue, and a copy of it is to be transmitted to the Collector monthly, or as often as he may require.

26. The monthly or other receipts, for salaries, pensions or allowances, of whatever kind, which may be paid by the Collectors, are to be deposited amongst the public records of their respective zilas, and a register of them is to be kept by the keepers of the Native records. Register of receipts for salaries, &c.

27.—[*Repealed by Act No. XVI of 1874.*]

28, 29.—[*Repealed by Regulation III of 1822.*]

30, 31, 32.—[*Repealed by Act No. XVI of 1874.*]

33. The Board of Revenue are empowered to require the personal attendance of any proprietor or farmer of land, or any dependent taluqdár, under-farmer or raiyat, or any Native officer employed under a Collector, for the purpose of adjusting any settlement, or examining any accounts, or inquiring into any matter coming within their cognizance, provided the personal attendance of the party shall appear to them indispensably necessary. In what cases Board may require personal attendance of Natives.

In such cases, the Board are to direct the Collector to serve such person with a written notice under his official seal and signature, specifying the business on account of which his attendance is judged necessary, and requiring him to attend the Board by such period as they may limit, under pain of being subject to such daily fine until he attends, or shows satisfactory cause for his non-attendance, as the Board may think proper to impose.

The Board are empowered to fine such persons neglecting to appear by the time required, in such amount as may appear to them proper upon a consideration of the case and the situation and circumstances in life of the party, and the amount of the fine shall be levied by the Collector, by the process prescribed for the recovery of arrears of revenue.

But the Board of Revenue are prohibited requiring the personal attendance of any person in cases in which the business can be transacted by a vakíl.

34, 35.—[*Repealed by Regulation III of 1822.*]

Powers of Board as to settlement of lands held khás.

36. The Board of Revenue are empowered to issue orders to their subordinate officers for making the settlement of lands that are or may be khás, in conformity to the Regulations, and any special instructions which may be prescribed to them by the Governor General in Council.

Security for payment of revenue.

37. In all cases of a settlement being made with or on behalf of zamíndárs, independent taluqdárs or other actual proprietors of land, their lands are to be deemed sufficient security for the payment of the revenue.

But where lands are let in farm, a málzámin, or surety for the punctual discharge of the revenue, is to be invariably required.

Remissions.

38. No remissions upon the settlement of a preceding year, nor any remissions whatsoever, are to be granted by the Board without the sanction of the Governor General in Council.

Settlements to be made by Collectors.

39. It is to be observed as a general principle, that the settlement of lands that are or may be khás is to be made by the Collectors under the regulations and the instructions of the Board of Revenue.

But if the Board should deem a special deputation of one of their members, or of any other person, necessary to form the settlement of any such lands, they are to propose the measure to the Governor General in Council, with their reasons for recommending it.

Procedure on settlement being concluded.

40. Upon a settlement being concluded with any proprietor or farmer, conformably to the Regulations, the Board of Revenue are to issue the usual bandobastí parwána to the proprietor or farmer, without applying to the Governor General in Council for his sanction for that purpose.

Collection of revenue.

41. The collection of the revenue is committed to the Collectors; but the Board of Revenue are to see that the revenues are realized by the stipulated

periods, or that solid and satisfactory reasons are assigned by the Collectors for any delay or deficiency.

The power of coercion over the proprietors and farmers of land is also vested in the Collectors, as prescribed in Regulation XIV. 1793.[a]

42. The Board are authorized to grant temporary suspensions of the demands of revenue whenever it may appear to them indispensably necessary, reporting the sum suspended, without delay, to the Governor General in Council, with their reasons for the measure. But they are not to grant any suspensions beyond the current year. Temporary suspensions.

43. No remissions of balances are to be granted without the special authority of the Governor General in Council. Remissions of balances.

44.—[*Repealed by Act No. XXVI of 1871.*]

45. The Board of Revenue are to furnish the Governor General in Council with such annual, monthly or other accounts, as they now are or may be required to submit to him. Duty of Board to furnish accounts, &c.

They are likewise to observe all special orders which they have received or may receive from the Governor General in Council.

REGULATION VIII OF 1793.

Passed on the 1st of May 1793.

A Regulation for re-enacting, with modifications and amendments, the rules for the Decennial Settlement of the public revenue payable from the lands of the zamíndárs, independent taluqdárs, and other actual proprietors of land, in Bengal, Bihár and Orissa, passed for those Provinces respectively, on the 18th September, 1789; the 25th November, 1789; and the 10th February, 1790, and subsequent dates.[b]

1 to 3.—[*Repealed by Act No. XVI of 1874.*]

4. The settlement, under certain restrictions and exceptions hereafter specified, shall be concluded with the actual proprietors of the soil, of whatever denomination, whether zamíndárs, taluqdárs or chaudhrís. Settlement with whom to be concluded.

5 to 12.—[*Repealed by Act No. XVI of 1874.*]

[a] Repealed by Act No. XVI of 1874.

[b] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

Payment of revenue by taluqdárs ordered to be separated.

13. Taluqdárs ordered to be separated are not to be permitted to pay the revenue assessed upon their lands through the zamíndárs or other actual proprietors of estates, as heretofore.

Separated taluqdárs where to pay revenue.

14. Taluqdárs who, in consequence of the rules in sections 5 and 9,[a] may be separated from the zamíndárs or other actual proprietors of estates, through whom they heretofore paid their revenues, are to pay their revenue in future immediately into the Collector's treasury; except in districts where, from the number of taluqs, or other cause, this mode would be attended with considerable inconvenience, in which case tahsíldárs, or Native Collectors, are to be appointed to receive the revenue of the taluqs in such districts.

Tahsíldárs.

15. Zamíndárs or other actual proprietors of land, from whose zamíndárís or estates taluqs may be separated, shall not be appointed tahsíldárs to receive the revenue of the taluqs so separated, but the office of tahsíldár shall, in every instance, be given to some other person of character and responsibility, and the whole expense of it is to be defrayed by Government.

16 to 18.—[*Repealed by Act No. XII of 1876.*]

Istimrárdárs to be considered as pattá taluqdárs.

19. Istimrárdárs, however, who have not got possession of their lands to the exclusion, or without the consent, of the actual proprietors, as the mukarrarídárs mentioned in section 18 are supposed to have done, but hold them of the proprietors on pattá or lease, are to be considered as a species of pattá taluqdárs, and the settlement is to be made with them as hereafter specified.

Exceptions to general order for conclusion

20. The exceptions to the general order for the conclusion of the decennial settlement with the actual proprietors of the soil, contained in section 4, in-

[a] Sections 5 and 9 are as follows:—

5. *First.* The taluqdárs to be considered the actual proprietors of the lands composing the taluqs are the following:

Second. Taluqdárs who purchased their lands by private or at public sale, or obtained them by gift from the zamíndár or other actual proprietor of land to whom they now pay the revenue assessed upon their taluqs, or from his ancestors, subject to the payment of the established dues of Government, and who received deeds of sale, or gift of such land, from the zamíndár, or sanads from the khálsá, making over to them his proprietary rights therein.

Third. Taluqdárs, whose taluqs were formed before the zamíndár or other actual proprietor of land to whom they now pay their revenue, or his ancestors, succeeded to the zamíndárí.

Fourth. Taluqdárs, the lands comprised in whose taluqs were never the property of the zamíndár or other actual proprietor of the soil to whom they now pay their revenue, or his ancestors.

Fifth. Taluqdárs who have succeeded to taluqs of the nature of those described in the preceding clauses, by right of purchase, gift or inheritance, from the former proprietor of such taluqs.

* * * * * * * *

9. The rules in section 5, respecting taluqs, have also been extended to aima lands liable to the payment of a fixed quit revenue, denominated málguzárí aimas; and, agreeably to the distinctions laid down in that section, it has been ordered, that such málguzárí aima tenures as are held under grants of the Muhammadan Government previous to the Company's accession to the Díwání, or which have been since granted by proprietors of estates for a consideration received by them, are to be separated from the proprietors to whom their revenue is now paid, as coming within the spirit of the rules for the separation of taluqdárs who are proprietors of the lands composing their taluqs. But málguzárí aima tenures which may appear to have been *bonâ fide* granted for the purpose of bringing waste-lands into cultivation, shall continue included in the estates to which they are now annexed, as coming within the rules in section 8, respecting jungalbúrí taluqs.

clude the following descriptions of persons; females (excepting those whom the Governor General in Council may judge competent to the management of their own estates), minors, idiots, lunatics, or others rendered incapable of managing their lands by natural defects or infirmities of whatever nature; provided, however, with regard to the whole of these descriptions, that they are not partners in the zamíndárís, independent taluqs or other estates held by them, with others of a different description, in which case themselves or guardians are allowed, with their partners, to engage for the settlement of their lands, and elect a joint manager, under the restrictions hereafter mentioned.

of decennial settlement with actual proprietors of soil

21. The lands of disqualified proprietors, coming within the above descriptions, are to be managed for the benefit of the proprietors, by persons appointed to the trust by Government.

Management of lands of disqualified proprietors.

22. A further exception has been made to proprietors in balance to Government, and unable to pay the arrears due from them; in which instances, no settlement is to be concluded with the defaulting proprietors, but their lands are to be let in farm, or held khás, for a period of three years, at the discretion of the Collector.

Exception as to proprietors of land in balance to Government, and unable to pay arrears.

23 to 25.—[*Repealed by Regulation XVII of 1805.*]

26. The determination of the majority of the proprietors present, under the restrictions specified in section 23,[a] is also to be binding on the remainder, in agreeing or disagreeing to the jama proposed for undivided estates. The sharers, however, if dissatisfied, may obtain a division of their lands and a proportionate allotment of the revenue assessed thereon, but at their own expense.

Determination of agreement to jama of undivided estates.

27. When a portion of land stands in the joint names of several proprietors, or of one for many, but each proprietor has his separate share in his own possession and management, or in that of an agent for him, the settlement is to be made for each share with the person in possession, and his land is to be held exclusively responsible for the revenue assessed upon it.

Settlement of land standing in joint names of several proprietors, or of one for many.

28, 29.—[*Repealed by Act No. XII of 1876.*]

30. Where the property in lands is disputed, the settlement is to be made with the proprietor in possession, under an express declaration that he is never-

Settlement of disputed estates.

[a] The section referred to is as follows:—23. Where more proprietors than one possess an undivided estate, and the whole of them be not within the description of disqualified landholders specified in section 20, the settlement is to be made with them jointly, and they are to be required to elect a sarbaráhkár or manager, who shall have the exclusive management of their lands during the continuance of his appointment. The determination of the majority of the proprietors, or of the majority of those present in the event of the absence of any, is to be binding on the remainder in the choice of a manager; and when the votes of the proprietors are equal, the election of the manager is to be determined by the greater interest of the proprietors in the property. If in any case the interest also be equal, the manager is to be appointed by the Board of Revenue.

theless liable to the claims upon the estate, which is to be transferable to any other person to whom the property may be subsequently adjudged.

If no claimant has been previously in possession.

31. If a case should occur, in which none of the claimants shall have been previously in possession, they are to be allowed to appoint a manager until their claims shall have been determined in the Díwání Adálat of the zila: but if they should not agree to a manager, the lands are to be held khás, and the surplus-produce, after discharging the revenue, is to be kept in deposit, until the right of property shall be adjudged.

Settlement in cases of disputes as to boundaries.

32. Where disputes exist concerning the boundaries of land, they are to be left to be adjusted in the Díwání Adálat, and the settlement is to be made in the meantime for the lands in possession of the disputing parties respectively.

Rules for fixing assessment.

33. The special rules for fixing the assessment of the three Provinces respectively, adapted to the local circumstances of each, commence with section 68, and the following general rules have been prescribed in addition thereto.

Allowances of kázís and kánúngos, and public pensions, to be added to the jama.

34. The allowances of the kázís and kánúngos, heretofore paid by the landholders, as well as any public pensions hitherto paid through the landholders, are to be added to the amount of the jama, and in future paid by the Collectors of the Revenue of the several zilas, on the part of Government, under the rules and restrictions laid down for their guidance, with regard to such payments, in the resolutions passed by the Governor General in Council on the 10th June, 1791, and re-enacted with modifications by Regulation XXIV. 1793.[a]

Assessment to be fixed exclusive of sáir with exceptions.

35. The assessment is to be fixed exclusive and independent of all duties, taxes and other collections, known under the general denomination of sáir; the collections made in the ganjes, háts and bázárs, situated within the limits of the town of Calcutta excepted, and excepting also the collections confirmed to the proprietors and holders of ganjes, bázárs and háts, by the resolutions passed by the Governor General in Council on the 11th of June, 1790.

Also exclusive of lákhiráj lands.

36. The assessment is also to be fixed exclusive and independent of all existing lákhiráj lands, whether exempted from the khiráj (or public revenue) with or without due authority.

But not of málikána lands in Bihár, or other lands in Bengal and Mednípur.

37. The above exception, however, is not meant to include the málikána lands in Bihár, or the nánkár, khámár, nij-jot and other private lands of the zamíndárs and independent taluqdárs or other actual proprietors of land, in Bengal and Mednípur, regarding which the following rules have been prescribed.

Málikána lands in Bihár to be re-annexed.

38. Where the zamíndárs or other actual proprietors of land in Bihár have resigned, or have been deprived of the management of their lands,

[a] Repealed by Act No. XXIII of 1871.

retaining possession of a tithe as málikána, the latter is to be re-annexed, and the zamíndárs or other actual proprietors are to be required to engage for the whole of their estates including the málikána lands; unless such lands be held as málikána under grants made or confirmed by the Governor General in Council, or the supreme authority of the country for the time being, and have been sold or mortgaged, and given in possession to the mortgagee, in which case they are to be exempted from this rule.

Grants for málikána lands not made or confirmed by the supreme authority of the country, are declared invalid by the Regulations passed on the 8th August, 1788.

If the Collectors, however, should be of opinion that any material injury will be done to any individual by the execution of these orders, they are to report the circumstances to the Board of Revenue.

Nánkár, khámár nij-jot and other private lands of proprietors, in Bengal and Orissa, to be annexed to málguzárí lands.

39. The nánkár, khámár, nij-jot and other private lands, appropriated by the zamíndárs, independent taluqdárs and other actual proprietors of land, in Bengal and Orissa, to the subsistence of themselves and families, shall be also annexed to the málguzárí lands, and the ten years' jama fixed upon the whole under the following modification; that such proprietors as may decline to engage for their lands be allowed the option of retaining possession of their private lands above specified, upon the terms on which they have hitherto possessed them, provided they shall prove, to the satisfaction of the Board of Revenue, that they held them under a similar tenure previous to the 12th August, 1765, the date of the grant of the Díwání to the Company, and have hitherto been permitted to keep possession of them, whenever their zamíndárís or estates have been held khás or let in farm, but not otherwise.

In the event of such proof, and of their availing themselves of the option above given to retain possession of their private lands, a deduction, adequate to the neat produce of such lands, is to be made from the amount of the allowance fixed for excluded proprietors by section 44.

Consolidation of málguzárí and private lands also in certain taluqs.

40. The above consolidation of the málguzárí and private lands is also to be made in the taluqs continued under the proprietors on whom they have hitherto been dependent; not, however, with a view of increasing the rents of the taluqdárs, but in order to make the whole of the lands composing their taluqs answerable for their proportion of the public assessment allotted thereon.

Chákarán lands to be annexed to málguzárí lands.

41. The chákarán lands, or lands held by public officers and private servants in lieu of wages, are also not meant to be included in the exception contained in section 36. The whole of these lands in each Province are to be annexed to the málguzárí lands, and declared responsible for the public revenue assessed on the zamíndárís, independent taluqs or other estates in which they are included, in common with all other málguzárí lands therein.

42.—[*Repealed by Act No. XVI of 1874.*]

Procedure in case of landholders declining to engage for jama proposed to them.

43. In the event of any proprietor declining to engage for the settlement of his lands at the jama proposed to him, the Collector is to communicate the objections offered, with his opinion respecting them, to the Board of Revenue.

That Board is to determine the proper assessment after making such further inquiries as they may think necessary, and the objecting proprietor is to be required to engage for such assessment without further delay; and in the event of his refusal, which is to be given in writing, his lands are to be let in farm or held khás, as the Board of Revenue may in each instance think most expedient.

44 to 47.—[*Repealed by Act No. XVI of 1874.*]

48.—[*Repealed by Act No. XII of 1876.*]

Certain istimrárdárs not liable to increase of rent.

49. It is to be understood, however, that istimrárdárs (mukarrarídárs) of the nature of those described in section 18,[a] who have held their land at a fixed rent for more than twelve years, are not liable to be assessed with any increase, either by the officers of Government or by the zamíndár or other actual proprietor of land, should he engage for his own lands.

With regard to such istimrárdárs, also, as have not held their lands at a fixed rent for so long a period, if the zamíndár or other actual proprietor of land has bound himself by the deed which he may have executed not to lay any increase upon them, he shall not be allowed to infringe the conditions of the deed for his own benefit, but must confine his demands to the rent he may have voluntarily agreed to receive.

Exception to above.

50. This last restriction imposed on the zamíndár or other actual proprietor of land, in section 49, is not to be considered to preclude the officer of Government or farmer, in the event of the zamíndárí being held khás or let in farm, from assessing such istimrárdárs according to the general rate of the district.

Rules to prevent undue exactions from taluqdárs.

51. The following rules are prescribed to prevent undue exactions from the dependent taluqdárs:—

First.—No zamíndár or other actual proprietor of land, shall demand an increase from the taluqdárs dependent on him, although he should himself be subject to the payment of an increase of jama to Government; except upon proof

[a] Section 18 is as follows:—

18. Mukarrarídárs holding lands of which they are not the actual proprietors and whose mukarrarí grants have been obtained since the Company's accession to the Díwání, and never received the sanction of the Supreme Government, are to be dispossessed, and the settlement is to be made with the actual proprietors of the soil under this Regulation.

In cases, however, where such mukarrarídárs have been in possession of their mukarraris for a term exceeding twelve years, they are to receive during their lives (subject to the pleasure of the Honourable Court of Directors) the difference between the jama at which they held the lands and that which may be now agreed to by the actual proprietors, added to the neat produce of the authorized sáir, resumed or abolished.

that he is entitled so to do, either by the special custom of the district, or by the conditions under which the taluqdár holds his tenure; or that the taluqdár, by receiving abatements from his jama, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

Second.—If, in any instance, it be proved that a zamíndár or other actual proprietor of land exacts more from a taluqdár than he has a right to, the Court shall adjudge him to pay a penalty of double the amount of such exaction, with all costs of suit, to the party injured.[a]

Power of actual proprietors to let remaining lands as they think proper.

52. The zamíndár or other actual proprietor of land is to let the remaining lands of his zamíndárí or estate, under the prescribed restrictions, in whatever manner he may think proper; but every engagement contracted with underfarmers shall be specific as to the amount and conditions of it; and all sums received by any actual proprietor of land or any farmer of land, of whatever description, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted, and be repaid with a penalty of double the amount. The restrictions prescribed and referred to in this section are the following:

Lands so let not to be taken charge of without ámilnáma.

53. No person contracting with a zamíndár, independent taluqdár or other actual proprietor or employed by him in the management of the collections, shall be authorized to take charge of the lands or collections without an ámilnáma, or written commission, signed by such zamíndár, independent taluqdár or other actual proprietor.

Process to prevent imposition on raiyats under denomination of abwáb, maṭhauṭ, &c.

54.[b] The impositions upon the raiyats, under the denomination of abwáb, maṭhauṭ and other appellations, from their number and uncertainty having become intricate to adjust, and a source of oppression to the raiyats, all proprietors of land and dependent taluqdárs shall revise the same, in concert with the raiyats, and consolidate the whole with the assal into one specific sum.

In large zamíndáris or estates, the proprietors are to commence this simplification of the rents of their raiyats in the parganas where the impositions are most numerous, and to proceed in it gradually till completed; but so that it be effected for the whole of their lands by the end of the Bengal year 1198 in the Bengal districts, and of the Faslí and Wiláyatí year 1198 in the Bihár and Orissa districts, these being the periods fixed for the delivery of pattás, as hereafter specified.

Proprietors and farmers of land prohibited imposing new abwáb or maṭhauṭ on raiyats.

55. No actual proprietor of land or dependent taluqdár or farmer of land, of whatever description, shall impose any new abwáb or maṭhauṭ upon the raiyats, under any pretence whatever.

[a] See Act No. X of 1859, section 15.

[b] Section 54 is not applicable to that part of zila Rámgarh which is included in the Súbah of Bihár, Regulation IV, 1794, section 2.

Every exaction of this nature shall be punished by a penalty equal to three times the amount imposed; and if, at any future period, it be discovered that new abwáb or maṭhaut have been imposed, the person imposing the same shall be liable to this penalty for the entire period of such impositions.

56, 57.—[*Repealed by Act No. XII of 1876.*]

58.—[*Repealed by Regulation V of 1812, section 3.*]

59, 60.—[*Repealed by Act No. XII of 1876.*]

61.—[*Repealed by Act No. XVI of 1874.*]

Rules regarding patwáris.

62. *First.*—The annual revenue to be paid to Government from the estates of the proprietors of land with whom a settlement has been or may be concluded, having been declared fixed for ever, and Courts of Justice having been established, with powers to protect them against all demands exceeding that fixed revenue, whether made by the officers of Government or other persons, or by the authority of Government itself, and on the other hand, the grounds on which deductions and abatements were heretofore occasionally obtained by proprietors of estates when their jama was liable to frequent variation no longer existing, neither their rights nor the value of their property can be affected in future by the real produce of their estates being known.

The rules, therefore, hereafter prescribed regarding patwáris, which are framed solely to facilitate the decision of suits in the courts of judicature between proprietors and farmers of lands and persons paying rent or revenue to them, and to guard against any diminution of the fixed revenue of Government or injustice to individuals, by enabling the Collectors to procure the necessary information and accounts for allotting the public jama upon estates that may be divided, agreeably to the principles prescribed in Regulation I. 1793,[a] can be objected to by those proprietors only who may have it in contemplation, in the event of the division or transfer of a portion of their estates, to deprive Government of a part of the fixed revenue, or defraud some of the partners in their estates by obtaining a disproportionate allotment of the public assessment on the several shares, or to oppress the persons paying rent or revenue to them with impunity, by withholding from the Courts of Justice the documents necessary to enable them to afford redress to the complainants.

It being essential to the security of the public revenue, as well as of private rights and property, and at the same time consistent with the ancient usages of the country and the declarations in the proclamation announcing the public assessment on the lands fixed for ever, that Government should have the means of counteracting such unjustifiable views, the following rules have been adopted:

[a] See *supra*, p. 1.

Second.—Every proprietor of land who may not have established a patwárí in each village in his or her estate, to keep the accounts of the raiyats, as required by the original rules for the decennial settlement of the three Provinces, shall immediately appoint a patwárí in each village for that purpose. Proprietors to appoint patwárí to keep accounts of each village.

All proprietors of estates are to deposit in the Díwání Adálat of the zila, the Collector's kachahrí, and the principal kachahrí in each mahál or pargana, a list of the patwárís in their respective estates, and the names of the villages the accounts of which they may be severally appointed to keep. The proprietors are to notify every three months to the Court and the Collector, all vacancies that may occur, and the names of the persons whom they may appoint to fill them.

The Board of Revenue are empowered to authorize any proprietor to reduce the number of patwárís in such proportion as they may think proper, in cases in which it may appear to them unnecessary to entertain a separate patwárí for each village. Board of Revenue may authorize proprietors to reduce number of patwárís.

Third.—The patwárís in every estate are to produce all accounts relating to the lands, produce, collections and charges of the village or villages, the accounts of which may be kept by them respectively, and to furnish every information and explanation that may be required regarding them, whenever they may be required by any Court of Justice, to adjust any suit that may be depending before the Court between the proprietor or farmer of the estate and the raiyats, or any persons paying rent or revenue to them, or any other suit. Patwárís to produce accounts required by courts,

Fourth.—The patwárís in each estate shall also produce the accounts specified in the preceding clause, and furnish every explanation and information that may be required respecting them, for the allotment of the public revenue agreeably to the principles laid down in Regulation I. 1793,[a] in the event of the whole or any portion of the estates being directed to be disposed of at public sale, or being transferred by any private act of the proprietor or proprietors, or of the estate being ordered to be divided pursuant to a decree of a court of judicature, or where it may be a joint estate, in consequence of the request of one or more of the proprietors. also for allotment of public revenue, in cases specified, when required by Collector.

But no Collector is to require a patwárí to attend him and produce his accounts, but for the purposes above-mentioned, or in any other cases in which they may be expressly empowered to require them, by any Regulation printed and published in the manner directed in Regulation XLI. 1793.[b] Cases in which Collectors prohibited requiring accounts from patwárís, and

If any Collector shall require the patwárí of any village or villages to attend him and produce the village-accounts for purposes or in cases in which he may not be authorized to inspect them, the Court of Díwání Adálat, upon the circumstances being represented to it by the proprietor

[a] See *supra*, p. 1.

[b] Repealed by Act No. VIII of 1868.

of the estate, is empowered to make an order to prohibit the Collector requiring the accounts, and in the event of his repeating the requisition, to adjudge him to pay a fine to the proprietor of the estate, of such sum as to the Court may appear proper, and to levy the fine in the mode in which the Courts are empowered to levy fines from the Collectors in the suits described in section 33, Regulation XIV. 1793.[a]

penalty for breach of prohibition.

How Collectors and Courts are to compel attendance of patwáris.

Fifth.—When a Collector shall require the attendance of a patwárí for the examination of his accounts, either before him or any officer whom he may depute for the purpose, he is to serve such patwárí with a written notice, under his official signature and the seal of the zila, to attend with the accounts required, which are to be particularized in the notice.

If he shall omit to attend with the accounts by the limited time, and shall not show good cause to the Collector for the omission, the Collector is authorized to represent the circumstances through the vakíl of Government to the Court of Díwání Adálat of the zila, the Judge of which, provided there shall appear to him sufficient cause for so doing, may order such patwárí to be committed to close custody until he produces the accounts.

The Courts are to observe the same process with patwáris who may omit to attend with their accounts when required, for the adjustment of any matter or dispute depending before the Courts.

Patwáris may be required to swear to truth of accounts.

Sixth.—Patwáris shall be required to swear to the truth of the accounts they may produce when deemed necessary; and in the event of the Collector having occasion to proceed in person, or to depute an officer to examine any village-accounts on the spot, the Judge, upon application being made to him for that purpose by the Collector through the vakíl of Government, may grant to him, or to such officer, a commission to swear the several patwáris whose accounts are to be inspected, inserting in the commission the name of each patwárí to be sworn.

If the Collector shall have occasion to examine the accounts of a patwárí at the station at which the Court may be established, he is to cause him to be sworn before the Court, if he shall judge it necessary to require him to make oath to the truth of his accounts.

Patwáris liable to be prosecuted criminally for swearing to false accounts in court of judicature.

Seventh.—If a patwárí shall have sworn to the truth of any account that he may have been required to produce before a Court of Justice, for the purpose of deciding any matter before the Court, and the accounts shall afterwards be found to have been fabricated or altered, or not to be the true accounts, the Judge of the Court is empowered to commit him to be tried for perjury before the Court of Circuit.

[a] Repealed by Act No. XVI of 1874.

Eighth.—If a patwárí shall have been sworn before a Judge, or before a Collector or the officer of a Collector, to any accounts that he may have been required to produce before the Collector or his officer, in a case in which the Collector may have been empowered to require him to produce such accounts, and the accounts shall afterwards appear to have been fabricated or altered, or not to be the true accounts, the Collector is empowered to employ the vakíl of Government to prosecute such patwárí for perjury.

or before Collector.

In the cases specified in this and the preceding clause, if it shall be proved to the satisfaction of the Court that the accounts were fabricated, altered or changed, by the orders, or with the knowledge or connivance, of the proprietor or farmer of the estate, the Court shall impose such fine upon the proprietor or farmer so offending, as may appear to it proper, upon a consideration of the case and the situation and circumstances of the offender.

Punishment for proprietors or farmers concerned in falsifying accounts.

Ninth.—Upon the accounts of any village being ordered to be produced, if it shall be found that no patwárí has been appointed to keep the accounts of the raiyats, in conformity to the rules prescribed in clause second, the Court, provided it be a case in which the requisition of the accounts may be authorized, shall fine the proprietor for the first offence in such sum as it may judge proper upon a consideration of his or her situation and circumstances and the nature of the case; and for the second offence, twice the amount of the fine for the first; and for the third and every subsequent offence, double the amount of the fine for the preceding one.

How proprietors omitting to appoint patwárís are to be proceeded against.

If the accounts shall have been required by the Collector, he is to order the vakíl of Government to sue the proprietor on the part of Government under this section, for a breach of the rule in clause second.

Tenth.—The rules contained in this section are hereby declared equally applicable to dependent taluqs, as to estates paying revenue immediately to Government.[a]

Rules applied to dependent taluqs.

63.—[*Repealed by Act No. XVI of 1874.*]

64. The proprietors of land, dependent taluqdárs and farmers of land, of every description, are to adjust the instalments of the rents receivable by them from their under-renters and raiyats, according to the time of reaping and selling the produce, and they shall be liable to be sued for damages for not conforming to this rule.

Adjustment of mufassal kistbandís.

65. No proprietor of land or dependent taluqdár shall contract any engagement with any under-farmer, or authorize any act contrary to the letter and meaning of this Regulation.[b]

Bar to engagements contrary to Regulation.

66. Zamíndárs, independent taluqdárs and other actual proprietors of land, dependent taluqdárs, farmers of land holding farms immediately of Govern-

Landholders, &c., not to interfere in

[a] This section is repealed as to the district of Katak, the pargana of Paṭáspur, and the several parganas dependent on it, Regulation XII. 1817, section 2.

[b] See Regulation V of 1812, section 3.

matters coming within cognizance of Courts or Magistrates.

ment, and all persons farming lands of the above-mentioned descriptions of landholders and farmers of land, and their respective officers, agents, servants, dependents and raiyats, are prohibited from taking cognizance of, or interfering in, matters or causes coming within the jurisdiction of the Courts of Civil Judicature, or the Courts of Circuit, or the Magistrates, under pain of being liable to the payment of such fine to Government, and damages to the party injured, as the Court of Judicature in which they may be prosecuted for the act may deem it proper to impose and award.

67. Clauses 1 to 4.—[*Repealed by Act No. XII of 1876.*]

Collector to attend to spirit of Regulation, where not applicable to particular districts.

Fifth.—In the original rules above-mentioned it was also directed, that if, in any instance, the Regulations should appear inapplicable to the circumstances of any particular district, the Collector should attend to the spirit of them, and carry them into execution in such mode as circumstances might allow, reporting any alterations or modifications which he might deem necessary.

This rule is to be considered still in force in forming any settlements which remain to be concluded, but it is not to be construed to empower the Collector to exercise any judicial authority.

REGULATION XI OF 1793.

Passed on the 1st of May 1793.

A Regulation for removing certain restrictions to the operation of the Hindú and Muhammadan laws, with regard to the inheritance of landed property, subject to the payment of revenue to Government.[a]

Preamble.

1. A CUSTOM, originating in considerations of financial convenience, was established in these Provinces under the Native Administrations, according to which some of the most extensive zamíndárís are not liable to division.

Upon the death of the proprietor of one of these estates, it devolves entire to the eldest son, or next heir of the deceased, to the exclusion of all other sons or relations.

This custom is repugnant both to the Hindú and Muhammadan laws, which annexed to primogeniture no exclusive right of succession to landed-property, and consequently subversive of the rights of those individuals who would be entitled to a share of the estates in question, were the established laws of inheritance allowed to operate with regard to them as well as all other estates.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

It likewise tends to prevent the general improvement of the country, from the proprietors of these large estates not having the means, or being unable to bestow the attention, requisite for bringing into cultivation the extensive tracts of waste-land comprised in them.

For the above reasons, and as the limitation of the public demand upon the estates of individuals as they now exist, and the rules prescribed for apportioning the amount of it on the several shares of any estates which may be divided, obviate the objections and inconveniences that might have arisen from such divisions when the public demand was liable to annual or frequent variation, the Governor General in Council has enacted the following rules.

Descent of landed property after 1st July, 1794.

2. If any zamíndár, independent taluqdár or other actual proprietor of land, shall die without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindú law (according as the parties may be of the former or latter persuasion) may be respectively entitled to succeed to a portion of the landed property of the deceased, such persons shall succeed to the shares to which they may be so entitled.

Estate how held on death of actual proprietor.

3. If any zamíndár, independent taluqdár or other actual proprietor of land shall die without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindú law (according as the parties may be of the former or latter persuasion) shall be respectively entitled to succeed to a portion of the landed property of the deceased, under the rule contained in that section,[a] such persons shall be at liberty, if they shall prefer so doing, to hold the property as a joint undivided estate.

If one or more, or all of the sharers, shall be desirous of having separate possession of their respective shares, a division of the estate shall be made in the manner directed in Regulation XXV. 1793,[b] and such sharer or sharers shall have the separate possession of such share or shares accordingly.

If there shall be three or more sharers, and any two or more of them shall be desirous of holding their shares as a joint undivided estate, they shall be permitted to keep their shares united accordingly.

Shares held separate how assessed.

4. If any one or more of such sharers shall apply to have the separate possession of his or their share or shares, the proportion of the public jama charged upon the whole estate which is to be assessed upon such share or shares is to be adjusted according to the rules prescribed in section 10, Regulation I. 1793.

If the estate is held khás or let in farm, the provisions contained in section

[a] Section 2. [b] Repealed by Reg. XIX of 1814.

11, Regulation I. 1793, regarding estates so circumstanced which may be divided, will be applicable to it.

Saving of bequests and transfers.

5. Nothing contained in this Regulation is to be construed to prohibit any actual proprietor of land bequeathing or transferring by will, or by a declaration in writing, or verbally, either prior or subsequent to the 1st July, 1794, his or her landed estate entire to his or her eldest son or next heir, or other son or heir, in exclusion of all other sons or heirs, or to any person or persons, or to two or more of his or her heirs, in exclusion of all other persons or heirs, in the proportions, and to be held in the manner, which such proprietor may think proper;

provided that the bequest or transfer be not repugnant to any Regulations that have been or may be passed by the Governor General in Council, nor contrary to the Hindú or Muhammadan law; and that the bequest or transfer, whether made by a will or other writing, or verbally, be authenticated by, or made before, such witnesses, and in such manner, as those laws and Regulations respectively do or may require.

REGULATION XIX OF 1793.

Passed on the 1st of May 1793.

A Regulation for re-enacting, with modifications, the rules passed by the Governor General in Council, on the 1st December, 1790, for trying the validity of the titles of persons holding, or claiming a right to hold, lands exempted from the payment of revenue to Government, under grants not being of the description of those termed bádsháhí or royal; and for determining the amount of the annual assessment to be imposed on lands so held, which may be adjudged or become liable to the payment of public revenue.[a]

Preamble.

1. BY the ancient law of the country, the ruling power is entitled to a certain proportion of the produce of every bígha of land (demandable in money or kind, according to local custom), unless it transfers its right thereto for a term or in perpetuity, or limits the public demand upon the whole of the lands belonging to an individual, leaving him to appropriate to his own use the difference between the value of such proportion of the produce and the sum payable to the public, whilst he continues to discharge the latter.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

As a necessary consequence of this law, if a zamíndár made a grant of any part of his lands to be held exempt from the payment of revenue, it was considered void, from being an alienation of the dues of Government without its sanction.

Had the validity of such grants been admitted, it is obvious that the revenue of Government would have been liable to gradual diminution.

Previous, however, to the Company's accession to the Díwání, numerous grants of this description were made, not only by the zamíndárs, but by the officers of Government appointed to the temporary superintendence of the collection of the revenue, under the pretext that the produce of the lands was to be applied to religious or charitable uses.

Of these grants some were applied to the purposes for which they were professed to have been made, but, in general, they were given for the personal advantage of the grantee, or with a view to the clandestine appropriation of the produce to the use of the grantor, or sold to supply his private exigencies.

In conformity to the principles which prevailed under the Native Administration, the British Government have at various times declared all grants for holding land exempt from the payment of revenue made since the date of the Company's accession to the Díwání, without their sanction, illegal and void.

Their lenity, however, induced them to adopt it as a principle, that grants of this description made previous to the date of the Díwání, and provided the grantees had obtained possession, should be held valid to the extent of the intentions of the grantor, as ascertainable from the terms of the writings by which the grants might have been made, or from their nature and denomination.

But no complete register of these exempted lands having been formed upon the Company's accession to the Díwání, nor subsequent to that period, many zamíndárs, as well as the temporary farmers of the public revenue, and the officers of Government to whom the collection of the revenue in the different districts has been occasionally committed, in consequence of the zamíndárs refusing to pay the revenue demanded of them, have availed themselves of the above-mentioned rule of limitation, to make grants of extensive tracts of land to others, or in the names of their relations or dependants, for their own use, dating the deeds for these alienations previous to the Company's accession to the Díwání, or procuring them to be registered in the zamíndárí records as having been alienated prior to that period.

Others have made such alienations without antedating the grants, and left it to the grantee to maintain himself in possession by such means as circumstances might afford, in the event of his title being brought into question.

The Governor General in Council deeming it incumbent on him to recover the public dues thus alienated in opposition to the ancient and existing laws

of the country, as well as to resume the revenue of all lands the grants for which might expire; and as the proprietors of estates were not entitled to collect such of the public dues from the lands included in their estates as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated by themselves or others, the amount, in both cases, being excluded from the assets on which the settlement was to be concluded, it was made a rule at the time of forming the decennial settlement, and which has been re-enacted by section 36, Regulation VIII. 1793.[a] that the jama assessed upon the estates of individuals was to be considered as exclusive and independent of all existing lákhiráj lands, whether exempted from the khiráj or public revenue, with or without due authority; and by the third clause of the seventh article of the Proclamation contained in Regulation I. 1793, which specifies the conditions under which Government declared the decennial settlement permanent, it is expressly stipulated, that the Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles.

The Governor General in Council, however, at the same time that he is desirous of recovering the public dues from lands which have been illegally alienated, is equally solicitous that persons holding such grants under titles that are declared valid should be secured in the possession and enjoyment of their property.

It is likewise his wish that the recovery of the dues of Government from those lands which have been illegally alienated previous to the 1st December, 1790, should be attended with as little distress as possible to the possessors; and to obviate all injustice or extortion in the inquiry into the titles of persons holding exempted lands, he has further resolved that the claims of the public on their lands (provided they register the grants as required in this Regulation) shall be tried in the courts of judicature, that no such exempted lands may be subjected to the payment of revenue, until the titles of the proprietor shall have been adjudged invalid by a final judicial decree.

Upon the above grounds, and with a view to facilitate the recovery of the public dues from lands held exempted under invalid grants, as well as to prevent any similar alienations being hereafter made, to the prejudice of the security of the public revenue which has been assessed in perpetuity upon the estates of individuals; and further, that Government and the officers employed in the collection of the public revenue may at all times have in their possession a correct register of the lands in the several zilas held exempt from the payment of revenue, the following rules, containing the rules passed on the 1st December, 1790, with modifications, have been enacted.

[a] See *supra*, p. 22.

2. *First.*—All grants for holding land exempt from the payment of revenue made previous to the 12th August, 1765, the date of the Company's accession to the Díwání, by whatever authority, and whether by a writing or without a writing, shall be deemed valid, provided the grantee actually and *bonâ fide* obtained possession of the land so granted previous to the date above mentioned, and the land shall not have been subsequently rendered subject to the payment of revenue by the officers or the orders of Government. Validity of grants of alienated land made before and after 12th August, 1765.

If it shall be proved, to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted previous to the 12th August, 1765, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.

Second.—In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made previous to the date of the Company's accession to the Díwání, and of it being proved, to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject the lands to the payment of revenue, the Court shall suspend its judgment and report the circumstances to the Governor General in Council, to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue; and upon receiving the determination of the Governor General in Council, the Court is to decide accordingly. Reference of doubtful claims to Governor General in Council.

No such claim, however, to hold exempt from the payment of revenue land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, shall be heard by any Zila or City Court, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent jurisdiction within the twelve years.

Third.—But no part of the two preceding clauses is to be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold exempt from the payment of revenue land now subject to the payment of revenue, under a grant made previous to the Company's accession to the Díwání, the writing for which may expressly specify it to have been given for the life of the grantee only: or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant, from the nature and denomi- No persons, not being original grantees, entitled to hold lands free of revenue.

nation of it, shall be proved to be a life-tenure only according to the ancient usages of the country.

Nor also heirs of present possessors.

Fourth.—Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue under a grant made previous to the Díwání, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Nor to entitle the heir to any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise; unless it shall be proved, to the satisfaction of the Court, that the grant, from the nature and denomination of it, is hereditary according to the ancient usages of the country.

But upon the demise of the present possessor of any such grant, which may be adjudged not hereditary under this clause, if it shall appear that one or more successions, in virtue of whatever right, shall have taken place before the date of the Díwání, the lands shall not be subjected to the payment of revenue under the decree without the sanction of the Governor General in Council, to whom a copy of the proceedings and decree of the Court is to be transmitted, and to whom is reserved a power of declaring the lands subject to the payment of revenue or not, as may appear to him proper.

Present possessors prohibited from transferring or mortgaging grants.

Fifth.—The present possessors of lands now exempt from the payment of revenue, under such life-grants made previous to the Díwání, and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives, and all such transfers and mortgages are declared illegal and void.

It is to be understood, however, that if any such life-grants shall have been confirmed as hereditary tenures by Government, or by the officers of Government empowered so to confirm them, they are not to be liable to the payment of revenue on the death of the present possessor, and are to be excepted from the other rules contained in this and the preceding clause.

If doubts shall arise in any Court as to the competency of the authority of any officer of Government to confirm any such life-grant as hereditary, the Court is to suspend its judgment, and report the circumstances to the Governor General in Council, to whom a power is reserved of determining, finally,

whether such officer possessed competent authority to confirm the grant as hereditary or not, and the Court, upon receiving the determination of the Governor General in Council, is to decide accordingly.

3. *First.*—All grants for holding land exempt from the payment of revenue, which may have been made since the 12th August, 1765, and previous to the 1st December, 1790, corresponding with the 18th Aghan, 1197, Bengal era, the 10th Aghan, 1198, Faslí, the 18th Aghan, 1198, Wiláiyatí, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.

All grants made or confirmed since Díwání declared invalid.

Second.—If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the Governor General in Council, to whom a power is reserved of determining, finally, whether the officer possessed competent authority to confirm the grant, or otherwise, and the Court, upon receiving the determination of the Governor General in Council, shall decide accordingly.

Courts how to proceed, in case of doubt of authority of officer confirming grant.

Third.—The rule contained in clause first is not to be considered to extend to authorize the subjecting to the payment of revenue land held exempt from the payment of it under grants made previous to the commencement of the Bengal year 1178, or the Faslí or Wiláiyatí year 1179 (according as the land may be situated in Bengal, Bihár or Orissa), under the signature of the chiefs of the late provincial councils and the seals of those councils, agreeably to an authority vested in them by Government for granting land to be held exempt from the payment of revenue, the annual produce of which did not exceed one hundred rupees.

Exception in favour of grants made by chiefs of provincial councils.

Fourth.—Nor to authorize the subjecting to the payment of revenue, any land, the grants for which, whether for the life of the grantee or otherwise, were made previous to the commencement of the Bengal year 1178, or the Faslí or Wiláiyatí year 1179 (according as the land may be situated in Bengal, Bihár or Orissa), where the quantity of land granted shall not exceed ten bíghás, and the produce of it is *bonâ fide* appropriated as an endowment on temples, or to the maintenance of Bráhmans, or other religious or charitable purposes.

And also of certain grants made for religious or charitable purposes.

The rule in this clause is declared to extend, also, to all grants of land whatever, not exceeding ten bíghás, made previous to the Díwání, the produce of which may be now so appropriated.

4. This Regulation, as far as regards lands alienated previous to the 1st December, 1790, respects only the question whether they are liable to the payment of revenue or otherwise.

Disputes regarding proprietary right.

Every dispute or claim regarding the proprietary right in lands alienated previous to that date, and which, in conformity to this Regulation, may

become subject to the payment of revenue, is to be considered as a matter of a private nature, to be determined by the Courts of Díwání Adálat, in the event of any dispute or claim arising respecting it between the grantee and the grantor, or their respective heirs or successors.

The grantees, or the present possessors, until dispossessed by a decree of the Díwání Adálat, are to be considered as the proprietors of the lands, with the same right of property therein as is declared to be vested in proprietors of estates or dependent taluqs (according as the land may exceed or be less than one hundred bíghás as specified in sections 6, 7 and 21) subject to the payment of revenue, and they are to execute engagements for the revenue with which their lands may be declared chargeable, either to Government, or to the proprietor or farmer of the estate in which the lands may be situated, or to the officer of Government (according as the revenue of the estate in which the land may be situated may be payable by the proprietor or a farmer, or collected khás), under the rules for the decennial settlement.

If by the decision of the Díwání Adálat the proprietary right in the land shall be transferred, the person succeeding thereto is, in like manner, to be responsible for the payment of the revenue assessed or chargeable thereon.

Effect of continuing proprietary right to grantee in possession.

5. By continuing the proprietary right in the land to the grantee or possessor, in the cases specified in the preceding section, instead of dispossessing him of the land altogether, agreeably to former usage, and assessing the land in the mode prescribed in the two following sections, a liberal provision will be left to him.

Where the grant may have been made before the Bengal year 1178, or the Faslí or Wiláiyatí year 1179, the proprietor will hold his land as an estate paying a fixed revenue of only half the amount assessed on other málguzárí lands in the country;

and where the grant may have been made subsequent to the above-mentioned periods, he will hold the land as subject to the payment of the same revenue as other lands assessed with revenue, under the rules for the decennial settlement, as hereafter directed.

To whom revenue assessed on lands, not exceeding 100 bíghás, alienated before 1st December, 1790, is to belong.

6. The revenue assessable under section 9 on land not exceeding one hundred bíghás of the measurement that may prevail in the pargana wherein it may be situated, and whether lying in one village, or two or more villages, and that may have been alienated by any one grant made previous to the 1st December, 1790, and which may be adjudged or become liable to the payment of revenue, shall belong to the person responsible for the discharge of the revenue of the estate or dependent taluq in which the land may be situated, notwithstanding anything said in section 8, Regulation I. 1793;[a]

[a] See *supra*, p. 4.

and he shall not be liable to the payment of any additional revenue on account of the assessment which may be chargeable on such lands during the continuance of the engagement under which he may pay the revenue of such estate or dependent taluq, when the land may be so adjudged liable to the payment of revenue.

If the estate or dependent taluq shall be held khás, when the lands are decreed liable to the payment of revenue, the amount is to be collected by, and paid to, whomsoever the rents and revenue of the estate or taluq may be payable, until a settlement shall be concluded for the revenue of it, either with the proprietor or a farmer.

The land which may be so adjudged subject to the payment of the revenue is to be considered as a dependent taluq.

Revenue on lands exceeding 100 bíghás, alienated prior to 1st December, 1790, to belong to Government.

7. The revenue assessable under section 8 on land exceeding one hundred bíghás of the measurement that may prevail in the pargana wherein it may be situated, and whether lying in one village, or two or more villages, and alienated by any one grant made previous to the 1st December, 1790, and which may be adjudged or become liable to the payment of revenue, is declared to belong to Government.

The lands specified in this section, which may be adjudged liable to the payment of revenue, are to be considered as independent taluqs.

Rules for assessment under section 7.

If grant made previous to Bengal year 1178, or Faslí or Wiláiyatí year 1179.

8. *First.*—The amount of the revenue payable from the lands specified in section 7 is to be adjusted according to the following rules.

Second.—If the grant shall have been made previous to the Bengal year 1178, or the Faslí or Wiláiyatí year 1179 (according as the lands may be situated in Bengal, Bihár or Orissa), the revenue to be paid to Government shall be equal to one-half of the annual produce of the land, calculating according to the rates at which other lands in the pargana of a similar description may be assessed.

If any part of the land shall be uncultivated, the proprietor is to be required to bring it into cultivation, and to pay such rasad or progressive increase, to be regulated with a reference to the reduced rate of the assessment on the cultivated land, as the Board of Revenue, with the sanction of the Governor General in Council, may deem reasonable.

The produce of the land shall be ascertained by a survey and measurement, one-half of the expense attending which is to be defrayed by the proprietor, in the event of his agreeing to the jama required of him, and the other moiety by Government; or by such other mode of investigation as the Collector, with the sanction of the Board of Revenue, may judge advisable.

If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held khás, under the rules prescribed in Regulation VIII. 1793.

[a] See *supra*, p. 19.

If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors shall hold the lands at such fixed revenue for ever.

If grant made after that time.

Third.—If the grant shall have been made subsequent to the Bengal year 1178, or the Faslí or Wiláiyatí year 1179 (according as the lands may be situated in Bengal, Bihár or Orissa), the revenue or jama to be paid to Government from the land shall be assessed agreeably to the rules prescribed in Regulation VIII. 1793,[a] for forming the settlement of estates paying revenue to Government, and the produce shall be ascertained, and the expense of the investigation defrayed, in the manner specified with regard to the lands in the preceding clause.

If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held khás, under the rules for the decennial settlement.

If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors shall hold the land at such fixed revenue for ever.

Rule for fixing revenue on land specified in section 6.

9. The rules in the preceding section are to be held applicable to the lands specified in section 6; with this difference, that the proprietor, farmer, dependent taluqdár or officer of Government to whom the revenue may be payable, shall ascertain the produce of the land without subjecting the grantee to any expense, and submit the accounts of it to the Collector, who shall fix the revenue to be paid from the lands in perpetuity, reporting the amount for the confirmation of the Board of Revenue, who are empowered, in cases in which it shall appear to them proper, to increase or reduce the amount.

If the proprietor shall agree to pay the revenue required of him, he and his heirs and successors shall hold the lands as a dependent taluq, subject to the payment of such fixed revenue for ever.

Grants made since 1st December, 1790, declared void.

10. All grants for holding land exempt from the payment of revenue, whether exceeding or under one hundred bíghás, that have been made since the 1st December, 1790, or that may be hereafter made, by any other authority than that of the Governor General in Council, are declared null and void, and no length of possession shall be hereafter considered to give validity to any such grant, either with regard to the property in the soil or the rents of it.

And every person who now possesses, or may succeed to, the proprietary right in any estate or dependent taluq, or who now holds or may hereafter hold any estate or dependent taluq in farm of Government, or of the proprietor, or any other person, and every officer of Government appointed to make the collections from any estate or taluq held khás, is authorized and

[a] See *supra*, p. 12.

required to collect the rents from such lands at the rates of the pargana, and to dispossess the grantee of the proprietary right in the land, and to re-annex it to the estate or taluq in which it may be situated, without making previous application to a court of judicature, or sending previous or subsequent notice of the dispossession or annexation to any officer of Government;

nor shall any such proprietor, farmer or dependent taluqdár be liable to an increase of assessment on account of such grants which he may resume and annul, during the term of the engagements that he may be under for the payment of the revenue of such estate or taluq when the grant may be so resumed and annulled.

The managers of the estates of disqualified proprietors, and of joint undivided estates, are authorized and required to exercise, on behalf of the proprietors, the powers vested in proprietors by this section.[a]

How proprietors and farmers to recover revenue on lands specified in section 6.

11. Proprietors or farmers of land, or dependent taluqdárs, who may deem themselves entitled to the revenue of any land of the description of that specified in section 6 situated in their respective estates, farms or taluqs, are to institute a suit for the recovery of it in the Court of Díwání Adálat.

Any proprietor or farmer of land, or dependent taluqdár, or other person, subjecting such lands to the payment of revenue, without having previously obtained a judicial decree for that purpose, shall be liable to be sued for damages by the parties injured.

Where estates or dependent taluqs may be held khás, the right of suing for the recovery of the revenue from the lands specified in section 6 is to be considered as vested in the party to whom the collections from the estate or taluq may be payable.

If the estate or taluq be held khás by Government, the tahsíldár or other officer is to sue for the revenue chargeable on such lands in the room of the proprietor, but under the directions of the Collector.

12, 13, 14.—[*Repealed by Regulation II of 1819.*]

Suits by or against Government.

15. The Collectors of the revenue are to defend all suits that may be instituted against Government, by any individual claiming a right to hold lands exempt from the payment of public revenue, and such suits, and the suits which the Board of Revenue may direct the Collector to institute, are to be defended and prosecuted by the vakíl of Government under the instructions of the Collector;

and in the event of Government being cast, either wholly or in part, or if the Collector shall be dissatisfied with the decree in any respect, all the rules contained in section 30, Regulation XIV. 1793,[b] and the other sections

[a] Repealed in part by Act No. X of 1859, s. 28.
[b] Repealed by Act No. XVI of 1874.

in that Regulation respecting decisions given against a Collector in any Zila Court, in suits instituted against him by any proprietor or farmer of land, for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree; with this difference, that the suit, from the commencement of it, is to be defended or carried on at the expense of Government, and in the event of the Board of Revenue not deeming it proper to order an appeal against the decision of the Zila Court to be preferred to the Provincial Court of Appeal, or against the decision of the Provincial Court to the Sadr Díwání Adálat, in the event of their ordering the cause to be appealed to the Provincial Court, and of its being given against them therein, they are to report their reasons, in both cases, for not preferring the appeal to the Governor General in Council, who will direct the cause to be appealed, or not, in either case as may appear to him proper.

16.—[*Repealed by Regulation II of 1819.*]

Grants forged or altered in any respect or antedated, declared void.

17. If it shall appear to any court of judicature during the course of a trial, that a grant for land to be held exempt from the payment of revenue, dated prior to the 1st December, 1790, has been forged, or that the name of the original grantee has been erased and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination of the tenure in the original grant has been erased or altered, or that the date of the grant has been changed, or that the grant has been antedated, the grant shall be adjudged null and void, as far as regards the exemption of the land from the payment of revenue, and the land shall be subjected to the payment of revenue accordingly.

18.—[*Repealed by Act No. XVI of 1874.*]

19.—[*Repealed by Regulation II of 1819.*]

Transfer of grants.

20. Grants of land, which from the terms of the grant or the nature of the tenure are hereditary, and are declared valid by this Regulation, or which have been or may be confirmed by the British Government, or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale or otherwise;

and all persons succeeding to such grants, by whatever mode, are required to register their names in the office of the Collector within six months after they may succeed to the grant.

But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this Regulation.

21, 22.—[*Repealed by Bengal Act No. VII of 1876.*]

23.—[*Repealed by Act No. VIII of 1868.*]

24. All persons actually holding lands exempt from the payment of public revenue, whether exceeding or under one hundred bíghás, in virtue of grants made previous to the 1st December, 1790, and whether made or confirmed by the Government of the country for the time being, or any other authority, shall be allowed one year from the date of the publication prescribed in the following section, to register the required particulars respecting their grants in the office of the Collector of the Revenue of the zila in which the lands may be situated. Time for registry of grants.

25. To prevent any pleas being hereafter urged of ignorance of the rule contained in the preceding section, the Collector of each zila, upon the receipt of this Regulation, is to cause the following publication, which shall be written in the Bengal and Persian languages in Bengal and Orissa, and in the Persian language and the Hindústání language and Nágarí character in Bihár, and attested with their official seals and signatures, to be fixed up in the principal kachahrí of every proprietor and farmer of land in the zila paying revenue immediately to Government; and of every Native Collector in lands held khás by Government; Publication to be made requiring all persons to register grants.

and where the estate of any proprietor with whom a settlement may have been concluded, or the farm of any farmer, or lands held khás, shall consist of two or more whole parganas, or portions of parganas, he shall cause the publication to be fixed up in the principal kachahrí in each pargana, or portion of a pargana, comprised in such estate, farm or khás lands, and take a receipt, specifying the date on which the publication may be fixed up, from such proprietor, farmer or Native officer, who shall respectively be held responsible for the paper remaining so affixed for one year from the date of it.

"In conformity to Regulation XIX. 1793, every person being actually in possession of brahmottar, bishnprít or other land now exempt from the payment of revenue, in the estate of ———, or the farm of ———, or the khás lands under the charge of ———, whether exceeding or under one hundred bíghás of the measurement of the pargana in which the land may be situated, and whether comprising or lying in one village, or two or more villages, and which may be held in virtue of any grant made previous to the 1st December, 1790, corresponding with the 18th Aghan, 1197, Bengal era, the 10th Aghan, 1198, Faslí, the 18th Aghan, 1198, Wiláiyatí, and whether made or confirmed by the Government of the country for the time being, or its officers, or any other authority, are required to register the following particulars respecting such lands in the office of the Collector of the zila, before the expiration of one year from the date of this publication. Publication.

"If any holders of such grants, who shall not so register their grants, either in person or by vakíl, with a vakálatnáma attested by two credible witnesses, and given for the express purpose of registering the grant, the lands will be considered liable to the payment of revenue, in the same manner as if they had been adjudged to be so by a final decree of a court of judicature.

"Persons having claims only to hold land exempt from the payment of revenue, but who do not now hold the lands exempt from the payment of revenue, are not to register the land so claimed by them.

"Denomination of the grant, whether bishnprít, brahmottar or other tenure.

"Name of the grantor.

"Name of the original grantee.

"Name of the present possessor, and if he be not the original grantee, his relationship to him, and whether he succeeded to the land hereditarily, or by purchase, or what other mode.

"Date of the deed, if the grant be in writing, and if not, the date on which the grant was made.

"The name or names of the village or villages comprised in the grant, or in which the land may be situated.

"The measurement of each village, or the villages or the land included in the grant.

"The pargana or parganas in which the lands may be situated.

"A copy of the original grant, or other writings, under which the land may be held."

Lands not registered within prescribed time.

26. If any person in possession of any such grant of land now held exempt from the payment of revenue shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the land included in the grant shall, by such omission, become subject to the payment of revenue, in the same manner as if it had been adjudged liable to the payment of revenue by a final decree of a court of judicature, and the Collector, if the land shall exceed one hundred bíghás, shall proceed to assess the lands accordingly; and if it shall be under one hundred bíghás, the party to whom the revenue of the land may be payable under section 6 is empowered to assess the lands as therein directed.

The Governor General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor of the land showing good and sufficient cause, to his satisfaction, for not having registered it within the limited period, and the Board of Revenue are to report to the Governor Gen-

eral in Council every case in which persons who may have omitted to register their grants as required may appear to them entitled to have their grants admitted upon the register.

Grants not registered within prescribed period, &c., invalid.

27. After the expiration of the period limited for registering grants, all grants not registered within the prescribed time, and which may not be subsequently admitted on the register by the Governor General in Council, are declared invalid, as far as regards the exemption from the payment of revenue, and the land shall be assessed with revenue as directed in section 26.

Effect of registry of lands.

28. It is expressly declared, however, that the registry of grants, under this Regulation, is not to be considered as an admission of the right of the person in whose name they may be registered to the property in the soil, or of his title to hold the lands exempt from the payment of revenue.

Any person will be at liberty to sue him in the Díwání Adálat for the former, and he will be liable to be sued for the recovery of the latter by the Collector, with the sanction of the Board of Revenue, in the event of it appearing to that Board that the lands are liable to the payment of revenue.

29 to 34.—[*Repealed by Bengal Act No. VII of 1876.*]

How separations and annexations of exempted lands are to be notified to the Courts.

35. Upon the arrival of the period when the separation is to be carried into effect, the Collector of the zila from which the separation may be directed to be made is to transmit to the Judge of the Díwání Adálat of his zila, copies of the entries in the last periodical register and register of intermediate resumptions, which may relate to the grants to be separated from his zila;

and the Collector to whose zila the annexation may be made is to transmit copies of the above-mentioned entries (with which he is directed to be furnished in the preceding section) to the Judge of the zila in which it may be included.

Immediately upon the receipt of these papers, the Courts, from the jurisdiction of which the separations may be made, are to transmit the papers in the causes depending before them, which in consequence of the separation may become cognizable in any other zila Court, to such Court, and to cause notification thereof to be communicated to the parties in writing.

36 to 44.—[*Repealed by Bengal Act No. VII of 1876.*]

45, 46.—[*Repealed by Act No. XII of 1876.*]

Rules respecting life-grants applicable to grants for a term.

47. All the rules in this Regulation respecting lands now held, or that may be claimed to be held, exempt from the payment of revenue, under life-grants made previous to the date of the Company's accession to the Díwání, are to be considered equally applicable to grants made previous to that date for a term only.

Saving of grants made or confirmed

48. No part of this Regulation is to be considered to annul any grants for holding land exempt from the payment of revenue, made or confirmed by the

by late superintendents of the bází-zamín daftar.

late superintendents of the bází-zamín daftar in Bengal, in virtue of the powers vested in them.

And of bádsháhí grants.

49. Nor to extend to jágír, altamghá, madadmásh, aima or other grants of land termed bádsháhí or royal, and held, or stated to be held, under a royal farmán.

The rules applicable to such grants are contained in Regulation XXXVII. 1793.

REGULATION XXXVII OF 1793.

Passed on the 1st of May 1793.

A Regulation for re-enacting, with modifications, the rules passed on the 23rd April, 1788, and subsequent dates, for trying the validity of the titles of persons holding or claiming a right to hold Altamghá, Jágír and other lands exempt from the payment of public revenue, under grants termed bádsháhí or royal, and for determining when certain grants of that description shall be considered to have expired; and for fixing the amount of the public revenue to be assessed upon the lands, the grants for which may expire, or be adjudged invalid.[a]

Preamble.

1. By the ancient law of the country, the ruling power is entitled to a certain proportion of the produce of every bígha of land, unless it transfers its right thereto for a term, or in perpetuity.

As a necessary consequence of this law, every grant or alienation of Government's proportion of the produce of lands without its sanction was considered null and void.

Had the validity of such grants or alienations been admitted, it is obvious that the public revenue would have been liable to gradual diminution.

Under the Native Government, grants were occasionally made of the Government's share of the produce of lands, for the support of the families of persons who had performed public services, for religious or charitable purposes, for maintaining troops, and for other services.

The British Government continued to the grantees or their heirs such of these grants as were hereditary, and were made before the date of the Com-

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

pany's accession to the Díwání, provided the grantees or their heirs had obtained possession previous to that date; but those grants which were for life only have been invariably considered as resumable on the death of the grantees.

No complete register of these grants having been formed on the Company's accession to the Díwání, nor subsequent to that period, many persons have retained possession of lands under fabricated or antedated grants, or have succeeded to life-grants on the demise of the original grantee or former possessor, without the sanction of Government.

The Governor General in Council deeming it incumbent on him to resume the public dues from lands held under invalid tenures, as well as the revenue of all lands the grants for which might expire, and as the proprietors of estates were not entitled to collect such of the public dues from the lands included in their estates as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated or were appropriated without authority, the amount of the revenue of the lands having in both cases been excluded from the assets on which the settlement was to be concluded, it was made a rule at the time of forming the decennial settlement, and which has been re-enacted by section 36, Regulation VIII. 1793,[a] that the jama assessed upon the estates of individuals was to be considered as exclusive and independent of all existing lákhiráj lands, whether exempted from the khiráj or public revenue, with or without due authority;

and by the third clause of the seventh article of the Proclamation contained in Regulation I. 1793, which specifies the conditions under which Government declared the decennial settlement permanent, it is expressly stipulated, that the Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles.

The Governor General in Council, however, at the same time that he is desirous of recovering the public dues from lands held under invalid tenures, is equally solicitous that persons holding lands under grants that are declared valid should be secured in the quiet possession and enjoyment of them.

With this view, and to obviate all injustice or extortion, in the inquiry into the titles of persons possessing lands under such grants, he has resolved that all claims of the public for the resumption of such grants (provided the grantees or persons in possession register their grants as required in this Regulation) shall be tried in the courts of judicature, that no such grants

[a] See *supra*, p. 22.

may be resumed until the title of the grantee or present possessor shall have been adjudged invalid by a final judicial decree.

Upon the above grounds, and with a view to facilitate the resumption of invalid grants, as well as to prevent any grants being hereafter made without the authority of Government, and further that Government and its officers may at all times have in their possession a correct register of the lands in the several zilas, held exempt from the payment of revenue under bádsháhí grants, the following rules, containing the rules passed on the 23rd April, 1788, and subsequent dates, with modifications, have been enacted.

Bádsháhí grants made before Díwání.

2. *First.*—Altamghá, jágír, aima, madadmásh or other bádsháhí grants for holding land exempt from the payment of revenue, made previous to the 12th August, 1765, the date of the Company's accession to the Díwání, shall be deemed valid, provided the grantee actually and *boná fide* obtained possession of the land so granted previous to that date and the grant shall not have been subsequently resumed by the officers or the orders of Government.

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted previous to the 12th August, 1765, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid.

Procedure in case of doubts as to authority of officer having resumed grants.

Second.—In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue, under a bádsháhí grant made previous to the date of the Company's accession to the Díwání, and on it being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to resume the grant and subject the lands to the payment of revenue, the Court shall suspend its judgment and report the circumstances to the Governor General in Council, to whom a power is reserved of determining whether such officer was or was not competent to resume the grant; and upon receiving the determination of the Governor General in Council, the Court is to decide accordingly.

No such claim, however, to hold exempt from the payment of revenue, land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, shall be heard by any Zila or City Court, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent authority within the

twelve years, and proceeded in it, as required by section 14, Regulation III. 1793.[a]

Third.—But no part of the two preceding clauses is to be construed to empower the Courts to adjudge any person, not being the original grantee entitled to hold land paying revenue to Government, exempt from the payment of revenue, under a jágír or other grant made previous to the Company's accession to the Díwání, where the grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usages of the country.

Persons not being original grantees, not entitled to hold lands free.

Fourth.—Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue under a jágír or other bádsháhí life-grant, made previous to the Díwání, to succeed to, and hold such land exempt from the payment of revenue upon the demise of the present possessor; where the grant may expressly specify it to have been given for the life of the grantee only, or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where from the nature and denomination of the grant it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Nor also heirs of persons now possessing exempted lands under life-grants made previous to Díwání.

Fifth.—The present possessors of lands now exempt from the payment of revenue under such jágír or other life-grants made previous to the Díwání, and declared by the preceding clause not to be hereditary, are prohibited from selling, or otherwise transferring them, or mortgaging the revenue of the lands for a longer period than their own lives, and all such transfers and mortgages which have been or may be made, are declared illegal and void.

Present possessors not to transfer or mortgage grants.

3. *First.*—All bádsháhí grants for holding land exempt from the payment of revenue, which may have been made since the 12th August, 1765, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.

Certain grants made or confirmed since Díwání declared invalid.

Second.—If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the Governor General in Council, to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise, and the Court, upon receiving the determination of the Governor General in Council, shall decide accordingly.

Procedure in cases of doubt of authority of officer confirming grant.

[a] Repealed by Act No. VI of 1871.

Questions regarding proprietary right to be determined in Díwání Adálat.

4. It is to be understood that this Regulation respects only the Government proportion of the revenue arising from lands held or claimed to be held under bádsháhí grants, and whether Government is entitled to resume or retain such revenue or otherwise.

Every dispute or claim regarding the zamíndárí or proprietary right in lands included in any grant, is to be considered as a matter of a private nature between the contending parties, and is to be determined in the Díwání Adálat.

Collectors to attach revenue of lands in escheated grants.

5. When a jágír or other life-grant shall escheat to Government, the Collector is immediately to attach the revenue of the lands, and report the circumstance to the Board of Revenue, who are to obtain the orders of the Governor General in Council regarding the resumption of the grant.

Assessment of lands included in resumed grants.

6. When any bádsháhí grant shall be resumed or expire, or escheat to Government, the revenue to be paid to Government from the lands included in it shall be assessed, and the settlement made in perpetuity, agreeably to the rules for the decennial settlement contained in Regulation VIII. 1793,[a] with the person possessing the zamíndárí or proprietary right in the lands, whoever he may be.

If the proprietor shall refuse to pay the jama demanded of him, the land shall be held khás or let in farm, as directed in that Regulation.

7, 8, 9.—[*Repealed by Regulation II of 1819.*]

Suits against Government by persons claiming to hold lands paying revenue exempt from revenue under bádsháhí grants.

10. Any person having a claim to hold lands paying revenue exempt from the payment of revenue under a bádsháhí grant, must institute his claim against Government, who alone can be the defendant in such suits, in the Díwání Adálat of the zila, in the same manner as in cases where individuals may claim a right to hold lands paying revenue exempt from the payment of revenue under grants not of the description of those termed bádsháhí, in virtue of Regulation XIX. 1793.[b]

The Collectors of the Revenue are to defend all such suits as may be instituted against Government, and such suits, and the suits which the Board of Revenue may direct the Collector to institute, are to be defended or prosecuted by the vakíl of Government, under the instructions of the Collector;

and in the event of Government being cast, either wholly or in part, or if the Collector shall be dissatisfied with the decree in any respect, all the rules contained in section 30, Regulation XIV. 1793,[c] and the other sections in that Regulation respecting decisions given against a Collector in any Zila Court, in suits instituted against him by any proprietor or farmer of land, for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree, with this difference, that the suit, from the

[a] See *supra*, p. 19. [b] See *supra*, p. 32. [c] Repealed by Act No. XVI of 1874.

commencement of it, is to be defended or carried on at the expense of Government, and in the event of the Board of Revenue not deeming it proper to order an appeal from the decision of the Zila Court to be preferred to the Sadr Díwání Adálat, they are to report their reasons for not preferring the appeal to the Governor General in Council, who will direct the cause to be appealed or not, in either case, as may appear to him proper.

11.—[*Repealed by Regulation II of 1819.*]

12. If it shall appear to any court of judicature, during the course of a trial, that a grant has been forged, or that the name of the original grantee has been erased and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination or the terms of the tenure in the original grant have been erased or altered, or that the date of the grant has been changed, or that the grant has been antedated, the grant shall be adjudged null and void. Grants forged or altered in any respect, or antedated, declared void.

13.—[*Repealed by Act No. XVI of 1874.*]

14.—[*Repealed by Regulation II of 1819.*]

15. Altamghá, aima and madadmásh grants are to be considered as hereditary tenures. Transfer of grants.

These and other grants, which from the terms or nature of them may be hereditary and are declared valid by this Regulation, or which have been or may be confirmed by the British Government, or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale or otherwise, and all persons succeeding to such grants, by whatever mode, are required to register their names in the office of the Collector, within six months after they may succeed to the grant.

But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this Regulation.

Jágírs are to be considered as life-tenures only, and with all other life-tenures are to expire with the life of the grantee, unless otherwise expressed in the grant.

16, 17, 18.—[*Repealed by Bengal Act No. VII of 1876.*]

19. All persons actually holding lands exempt from the payment of public revenue under bádsháhí grants, and whether made or confirmed by the Government of the country for the time being, or by whatever authority, shall be allowed one year, from the date of the publication prescribed in the following section, to register the required particulars respecting their grants in the office of the Collector of the Revenue of the zila in which the lands may be situated. Time for registry.

Publication to be made requiring all persons to register grants.

20. To prevent any pleas being hereafter urged of ignorance of the rule contained in the preceding section, the Collector of each zila in which any jágír, altamghá, aima or madadmásh, or other lands held under sanads or grants termed bádsháhí, may be situated, upon the receipt of this Regulation is to cause the following publication, which shall be written in the Bengal and Persian languages, in Bengal and Orissa, and in the Persian language, and the Hindústání language and Nágarí character, in Bihár, and attested with their official seals and signatures, to be fixed up in the principal kachahrí of the holders of grants of the description of those specified in this Regulation, and take a receipt from the holder of such grant or the person entrusted with the management of it, specifying the date on which the publication may be fixed up, and that he will be responsible for the paper remaining so affixed for one year from the date of it.

Publication.

"In conformity to Regulation XXXVII. 1793, every person being actually in possession of altamghá, jágír, aima, madadmásh or other land now exempt from the payment of revenue and held under bádsháhí grants, in the zila of———, whether made or confirmed by the Government of the country for the time being, or by whatever authority, are required to register the following particulars respecting such grants in the office of the Collector of the zila, before the expiration of one year from the date of this publication.

"If any holders of such grants who shall not register their grants, either in person or by a vakíl, with a vakálatnáma attested by two credible witnesses, and given for the express purpose of registering the grants, the grants will be considered liable to resumption, and the lands chargeable with the revenue, in the same manner as other lands subject to the payment of revenue.

"Persons having claims only to hold land exempt from the payment of revenue under such grants, but who do not now hold the lands exempted, are not to register the lands so claimed by them.

"Denomination of the grant, whether altamghá, jágír or other tenure.

"By whom granted.

"Name of the original grantee.

"Name of the present possessor, and if he be not the original grantee, his relationship to him, and whether he succeeded to the land hereditarily or by purchase, or what other mode.

"Date of the grant.

"The name or names of the maháls or villages, or lands, comprised in the grant, or in which the land may be situated.

"The names of the zamíndár or other proprietor of the maháls or villages, or lands, included in the grant, whether such zamíndárí or proprietary right shall be vested in the grantee or any other person.

"The measurement of each mahál or village, or the land included in the grant.

"The pargana or parganas in which the lands may be situated.

"A copy of the original grant and other writings under which the land may be held."

Grants not registered within prescribed time liable to resumption.

21. If any person in possession of any such grant that may be now in force shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the grant shall, by such omission, become subject to resumption, and the lands shall become liable to the payment of revenue to Government.

The Governor General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor showing good and sufficient cause, to his satisfaction, for not having registered it within the limited period, and the Board of Revenue are to report to the Governor General in Council every case in which persons who may have omitted to register their grants as required may appear to them entitled to have their grants admitted upon the register.

Grants not registered considered forfeited.

22. After the expiration of the period limited for registering grants, all grants not registered within the prescribed time, and which may not be subsequently admitted on the register by the Governor General in Council, are declared forfeited, and the lands shall be assessed with revenue, agreeably to the rules prescribed for the decennial settlement.

Effect of registry of grants.

23. It is expressly declared, however, that the registry of a grant under this Regulation is not to be considered as an admission of the right of the person in whose name it may be registered to the property in the soil, nor of the validity of his grant.

Any person will be at liberty to sue in the Díwání Adálat for the former, and he will be liable to be sued for the resumption of the grant by the Collector, with the sanction of the Board of Revenue, in the event of it appearing to that Board that the grant is invalid.

24.—[*Repealed by Bengal Act No. VII of 1876.*]

25.—[*Repealed by Act No. XVI of 1874.*]

26 to 29.—[*Repealed by Bengal Act No. VII of 1876.*]

Separations and annexations of exempted lands how notified to Courts.

30. Upon the arrival of the period when the separation is to be carried into effect, the Collector of the zila from which the separation may be directed to be made is to transmit to the Judge of the Díwání Adálat of his zila, copies of the entries in the last periodical register and register of intermediate occurrences, which may relate to the grants to be separated from his zila;

and the Collector to whose zila the annexation may be made is to transmit copies of the above-mentioned entries (with which he is directed to be furnished in the preceding section) to the Judge of the zila in which the lands may be included.

Immediately on the receipt of these papers, the Courts from the jurisdiction of which the separation may be made are to transmit the papers in the causes depending before them, which in consequence of the separation may become cognizable in any other Zila Court, to such Court, and to cause notification thereof to be communicated to the parties in writing.

31, 32, 33.—[*Repealed by Bengal Act No. VII of 1876.*]

34.—[*Repealed by Act No. XVI of 1874.*]

35 to 41.—[*Repealed by Bengal Act No. VII of 1876.*]

Regulation not to extend to grants not bádsháhí.

42. No part of this Regulation is to be considered to extend to lands held, or stated to be held, exempt from the payment of public revenue under grants not being of the description of those termed bádsháhí or royal.

The rules applicable to such grants are contained in Regulation XIX. 1793.[a]

REGULATION XXXVIII OF 1793.

Passed on the 1st of May 1793.

A Regulation for re-enacting, with modifications, such part of the Rule passed on the 27th June, 1787, as prohibits covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue, lending money to zamíndárs, independent taluqdárs or other actual proprietors of land, or dependent taluqdárs or farmers of land holding farms immediately of Government, or the under-farmers or raiyats of the several descriptions of proprietors and farmers of land above-mentioned, or their respective sureties; and for re-enacting, with alterations, the existing rules prohibiting Europeans of any description holding possession of lands that may be mortgaged to them, or purchasing or renting lands for erecting houses or buildings, for carrying on manufactures or other purposes, without the sanction of the Governor General in Council.[b]

Preamble.

1. AT an early period after the establishment of the British Government in this country, the servants of the Company employed in the administration of justice and the collection of revenue were prohibited from lending money to the landholders and farmers, and others concerned in the collection or payment of the revenue, in order to guard against the abuses that the powers

[a] See *supra*, p. 32.

[b] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

with which they were invested would have enabled them to practise, had they been permitted to engage in such transactions with individuals subject to their official control and authority.

This rule was incorporated with the Judicial Regulations passed on the 5th July, 1781, and has since continued in force.

From a regard to the prejudices of the Natives, and with a view to promote their ease and happiness, and to obviate the evils that would necessarily have resulted from allowing any persons, not amenable to the Provincial Courts of Judicature in common with the Natives, to purchase or rent estates without restriction or limitation, or to hold any land whatever, excepting for the erection of dwelling-houses, or buildings for manufactures or other commercial purposes, it was likewise early made a rule, that no European should purchase or hold land out of the limits of Calcutta without the sanction of Government. This rule was included in the Revenue Regulations passed on the 8th June, 1787, and has since remained in force.

The rules above-mentioned are hereby re-enacted with modifications.[a]

Covenanted servants prohibited lending money to proprietors, &c., of land.

2. The Judges and Magistrates of the Zila Courts and their Assistants, or other officers being covenanted servants of the Company, and the Collectors of the Revenue and their Assistants, are prohibited lending money, directly or indirectly, to any proprietor or farmer of land, or dependent taluqdár, or under-farmer or raiyat, or their sureties, and all such loans as have been made in opposition to the repeated prohibitions of Government, or which may be hereafter made, are declared not recoverable in any court of judicature.

REGULATION III OF 1794.

Passed on the 14th of March 1794.

A Regulation for exempting proprietors of land (with certain exceptions) from being confined for arrears of revenue; and for prescribing the process by which tahsíldárs are to demand payment of arrears; and for enabling the Collectors to recover from Native officers employed under them, public money or papers which they may embezzle or retain; and for expediting the trial of causes relating to the public revenue or the rents of individuals.[b]

Proprietors

12. That proprietors and farmers of land may be enabled to recover sums

[a] So much of this section as relates to Europeans purchasing or holding land is repealed by Act No. VIII of 1868.

[b] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

and farmers of land how to recover sums exacted from them beyond their engagements.

that may be exacted from them by the Collector, on the part of Government, above what they may be bound to pay by their engagements; and that they may be indemnified from all loss they may sustain by such exactions, it is declared, that if a Collector shall demand a sum of money from a proprietor or farmer of land, on account of arrears, in the manner prescribed in section 3, Regulation XIV. 1793,[a] and the proprietor or farmer shall deny, by a writing to that effect addressed to the Collector, the justness of the whole or a part of the demand, but to prevent any further process being issued against him shall discharge the whole of the demand, the proprietor or farmer shall be at liberty to sue the Collector in the Díwání Adálat of the zila for the recovery of the sum which he may consider to have been unjustly taken from him, and the Court shall give judgment in favour of the complainant for all such sums as may be proved to have been unduly exacted from him, and the amount of such judgment shall be refunded to him from the public treasury of the zila, with interest at the rate of twelve per cent. per annum, from the date of the exaction to the date of the decree.

All the rules in Regulation XIV. 1793,[b] respecting suits instituted against a Collector for sums actually received by him, on the part of Government, from any proprietor or farmer of land, or from the surety of any farmer, are to be considered applicable to suits that may be instituted against a Collector under this section.

How tahsíldárs or other public officers are to require payment of arrears from proprietors or farmers paying revenue to them.

13. When arrears shall become due from proprietors or farmers of land, whose revenue may be made payable to a tahsíldár or other officer appointed by Government to collect it, such officer is to demand the payment of the arrears by the same process as Collectors are required to observe in requiring the discharge of arrears.

If the defaulter shall not liquidate the arrears by the prescribed period, the tahsíldár or other officer is to report the amount of the arrear to the Collector, who is to proceed to the recovery of it by the same process as he is directed to observe in recovering arrears due from proprietors or farmers paying revenue immediately to the treasury of the zila.

14, 15.—[*Repealed by Act No. XVI of 1874.*]

Collectors how to proceed to recover public money or accounts in possession of Native officers.

16. If a Collector shall have a claim, on the part of Government, on any of the Native officers described in the preceding section, for a balance of accounts, or money or papers belonging to Government, he is to require the payment of the money or the delivery of the papers, by a writing under his official seal and signature, and the signature of his head Native officer of his daftar for the time being, specifying the amount of the money, or the particu-

a, b Repealed by Act No. XVI of 1874

lar papers required, and the date and place that may be fixed for the delivery of the money or papers.

If the officer shall not discharge the money or deliver up the papers by the limited time, the Collector is empowered to apprehend him, and convey him to the gaol of the Díwání Adálat of the zila, the Judge of which Court shall detain him in confinement until the sum demanded of him shall be discharged, or he shall have delivered up the papers.

The Collector is authorized, likewise, to attach such part of the real or personal property belonging to the officer, as may be sufficient to make good the sum which may be due from him.

If his property shall be in another zila, he is to apply to the Collector of that zila, who shall cause it to be attached.

The Board of Revenue are empowered to order the property to be sold, under the rules by which the lands of proprietors are directed to be disposed of for the discharge of arrears of revenue.

In the event of the death of any such officer, the surety is to be exonerated from all responsibility, and the Collector is to proceed against his heirs, by a regular suit in the Court to which they may be amenable, for any claims which Government may have upon the deceased.

The suit is to be carried on by the vakíl of Government and at the public expense, and the rules in Regulation XIV. 1793,[a] regarding suits so carried on by the Collectors, are to be held applicable to it.

Collectors how to proceed where officers abscond or are not forthcoming.

17. If any such Native officer, who may have retained public money or papers in his possession, shall abscond or not be forthcoming, the Collector may proceed against the surety upon his engagement, or apprehend the offender and commit him to prison, if he be within the limits of the zila; or if he shall have taken refuge in any other zila, and the Collector shall deem it necessary to require his personal attendance that he may proceed against him instead of his surety, the Collector is to apply to the Judge of the zila to request the Judge within whose jurisdiction the officer may be or reside, to cause him to be apprehended.

The Judge to whom the application may be made is to convey the officer in safe custody to the gaol of the zila from which he may have absconded.

Collector how to proceed in case of officer absconding without having adjusted accounts, or not attending for that purpose.

18. If a Collector shall have occasion to require any such officer to attend to adjust his accounts, that the sum due from him may be ascertained, and he shall not attend upon being required by writing to that effect, under the official seal and signature of the Collector, to be fixed up in his kachahrí, and at the place in the zila at which the officer may have last resided, the Collector is empowered to prepare the most accurate statement that he may be able of the

[a] Repealed by Act No. XVI of 1874.

money or papers in the possession of such officer, and proceed against the surety, upon his engagement, for the balance or papers, in the same manner as if the accounts had been adjusted, and the list of the papers prepared in the presence of the officer;

or he may cause the officer to be apprehended by his own authority under section 16, if he be within the limits of the zila, or, if he shall have taken up his abode in any other zila, by application to the Judge, in the manner directed in section 17.

If it should afterwards appear, upon inquiry before the Court, that no part, or a portion only, of the sum demanded was due from him, or that the papers required were not in his possession, the Collector shall not be liable to pay any damages for having confined him, and all costs that may be incurred in the suit or inquiry shall be paid by the officer.

Officers or sureties confined for money-demand to be released in certain cases.

19. If any such officer or his surety shall be confined on account of a claim for public money, and previous to the sale of his property, or supposing the Collector not to have been able to get possession of any property belonging to him, at any time subsequent to his confinement, shall deny the justness of the whole or any part of the demand made upon him by the Collector, and find some responsible person who will become security that he will institute a suit in the Court in fifteen days against the Collector to try the demand, and to pay the sum that may be awarded against him, with costs, and interest at the rate of twelve per cent. from the date on which the sum may be demanded of him to the date of the decree, the Court is to discharge the officer or surety, and proceed to the trial of the suit;

and if any property belonging to the officer or surety shall have been ordered to be sold, the sale shall be countermanded, and the property restored to the owner.

Native officers or their sureties may sue Collector whilst in confinement.

20. If any such Native officer, or his surety, shall be committed to custody by the Collector, and shall not obtain his release in the mode specified in section 19, he shall nevertheless be at liberty, whilst in confinement, to sue the Collector by whom he may have been confined, should he deem the demand upon him unjust.

REGULATION I OF 1798.

Passed on the 9th of January 1798.

A Regulation to prevent fraud and injustice in conditional sales of land under deeds of bai-bil-wafa, or other deeds of the same nature.[a]

Preamble.

1. IT has been long a prevalent practice in the Province of Bihár to borrow

[a] See sections 7 and 8, Regulation XVII of 1806. Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

money on the mortgage and conditional sale of landed property, under a stipulation that if the sum borrowed be not repaid (with or without interest) by a fixed period, the sale shall become absolute.

This species of transfer has, in the above Province, been usually denominated bai-bil-wafa; and the same transaction is common in Bengal, under an instrument termed katkabála.

It doubtless exists, also, under deeds of the above or similar denominations, in Orissa and Benares: and since the promulgation of the rules respecting interest contained in Regulation XV. 1793,[a] it has become more prevalent; particularly in the Province of Bihár, wherein instances have occurred in which persons lending money on bai-bil-wafa, in order to render the sale absolute, and thereby possess themselves of the landed property of the borrower, have denied the tender or evaded receiving payment of the money due to them within the period limited for the discharge of it.

In such cases, the proof of the tender falls on the borrower; and if he fail in the proof of it for want of legal evidence, he is liable to lose his estate.

It is necessary, therefore, for the security of the borrower, in such transactions, that he should have the means of establishing before a court of judicature his having tendered, or being ready to pay, within the stipulated period, the amount due from him to the lender; who, if he mean to act fairly, will also derive a benefit from a clear rule being laid down, whereby it may be readily ascertained whether the borrower was willing to redeem his property by the payment of the money lent upon it within the period agreed upon between the parties, or whether, from his having omitted to perform the conditions of such redemption, the sale is become absolute and the property included therein finally transferred to the lender.

For the above purpose, and for the prevention of other abuses in the transactions referred to, the Governor General in Council has passed the following rules, to be considered in force in the Provinces of Bengal, Bihár, Orissa and Benares, from the date of the receipt of this Regulation by the several Courts respectively.

Procedure for borrower of money on conditional sale of land, who desires to redeem it by paying money lent.

2. In all instances of the loan of money on bai-bil-wafa, or on the conditional sale of landed property, as explained in the preamble to this Regulation, however denominated, the borrower, who may be desirous to redeem his land by the payment of the money lent upon it, with any interest due thereon, within the stipulated period, is at liberty, on or before the date stipulated, either to tender and pay to the lender the amount due to him, taking such precautions as he may think necessary to establish such tender and payment, if evaded or

[a] Repealed by Act No. VIII of 1868.

denied, or without any tender to the lender, to deposit the amount due to him, on or before the stipulated date, in the Díwání Adálat of the city or zila in which the land may be situated; and the Judge receiving the same shall furnish the party with a written receipt for the amount, specifying on what date, and for what purpose, such deposit may have been made.

He shall also, at the same time, cause a written notice of such deposit to be delivered to the lender; and on the application of the latter, and his surrender of the conditional bill of sale, or showing satisfactory cause why it cannot be surrendered, shall pay him the amount deposited, and take his acknowledgment, to remain among the records of the Court.

That there may be no doubt to what amount the deposit in question is to be made, it is required to be as follows:—

When the lender has not obtained possession of the lands, the deposit is to be the principal sum lent, with the stipulated interest thereon, not exceeding the legal rate of twelve per cent. per annum; or if interest be payable and no rate has been stipulated, with interest at the established rate of twelve per cent.; but if the lender has held possession of the land, the principal sum borrowed only need be deposited, leaving the interest to be settled on an adjustment of the lender's receipts and disbursements during the period he has been in possession.

In either case, a deposit, made as above required, shall be considered to preserve to the borrower his full right of redemption; and if the land be in the possession of the lender, shall entitle him to demand the immediate recovery thereof, subject to the adjustment of accounts specified in the following section.

Provided, however, that if the borrower in any case shall deposit a less sum than above required, alleging that the sum so deposited is the total amount due to the lender for principal and interest, after deducting the proceeds of the lands in his possession, or otherwise, such deposit shall be received, and notice given to the lender as above directed; and if the amount so deposited be admitted by the lender, or be established, on investigation, to be the total amount due to him, the right of redemption shall be considered to have been fully preserved to the borrower, who will not, however, in such cases, be entitled to the recovery of his lands, until it be admitted or established that he has paid the full amount due from him.

When lender has possessed land, and adjustment of accounts is necessary, he is to account

3. In all instances wherein the lender on a bai-bil-wafa, or similar conditional sale, may have been put in possession of the land, and an adjustment of accounts may consequently become necessary between him and the borrower, the lender is to account to the borrower for the proceeds of the estate whilst in his possession, on the principles prescribed with regard to mortgages and

interest in Regulation XV. 1793,[a] as far as the same may be applicable to the nature of the case. for proceeds of estate.

But such part of section 10 of the above Regulation as directs that the mortgages therein referred to are to be considered as cancelled and redeemed, whenever the principal sum, with the simple interest due upon it, shall have been realized from the usufruct of the mortgaged property, or otherwise liquidated by the mortgagee, being inapplicable to the conditional sales referred to in this Regulation, it is hereby declared not to apply thereto.

4. A típ for the repayment of money lent on the conditional sales referred to in this Regulation shall not be considered a legal tender, unless accepted as such by the lender; the proof of which acceptance shall be the lender's giving up the bill of sale, or giving a written acknowledgment that he has received back the money lent by him. Típs not to be considered legal tender unless accepted by lender.

5. Nothing in this Regulation being intended to alter the terms of contract settled between the parties in the transactions to which it refers (illegal interest excepted), the several provisions in it are to be construed accordingly; and any question of right between the parties is to be regularly brought before and determined by the Courts of Civil Justice. Regulation not to alter contract between parties.

REGULATION I OF 1799.

Passed on the 4th of January 1799.

A Regulation for declaring a general freedom of trade in chunam and other articles on the frontier of Silhat, subject to certain provisions.

1. ON the 8th October, 1790, sundry resolutions were passed by the Governor General in Council, and published in the *Calcutta Gazette*, relative to the trade in chunam and other articles on the frontier of Silhat. These resolutions, with some modifications, are now enacted as a Regulation, which is to be considered in force from the date of its promulgation, and to supersede the resolutions above-mentioned. Preamble.

2. The trade on the frontier of Silhat with the Khásias and other mountaineers, as well as with all other persons, is declared free to the Native inhabitants of the district of Silhat, as well as to all other persons whatever. Provided, with respect to all descriptions of persons, that the trade be carried on under the general restrictions contained in the following section. Trade on Silhat frontier free to all persons, under following restrictions.

3. *First.*—[*Repealed by Regulation II of 1828.*]

Second.—No person shall supply the Khásias or other hill people with arms, ammunition, saltpetre, sulphur or other articles of military store. Khásias, &c., not to be supplied with arms, &c.

[a] Repealed by Act No. VIII of 1868.

Restriction on armed men passing Company's frontier.

Third.—No barkandáz or other armed men, belonging to individuals (excepting such as may be indispensably necessary for their personal safety or the security of their property) shall be allowed on any pretence to pass to or beyond Láur, or beyond any other part of the Company's frontier.

Contraband articles liable to seizure in attempt to pass frontier, and to be confiscated.

4. The Magistrate of the district of Silhat, and his Police-officers, are required to cause strict observance of the provisions contained in the foregoing section; and all contraband articles which it may be attempted to pass by any of the frontier-stations, against the prohibition contained in the second clause, in opposition to the first clause, together with all boats, carriages or cattle, which may be employed for the conveyance thereof, are declared liable to seizure and confiscation for the use of Government.

Police-officers authorized to search boats, &c., and to send contraband articles to Magistrate, who may confiscate and report his proceedings to Government.

The Police-officers stationed at Láur and at the other frontier-stations are authorized to search all boats, carriages and carriage-cattle, for the purpose of ascertaining whether they contain any of the above-mentioned contraband articles (detaining them no longer than may be absolutely necessary for this purpose);

and if any such be found, they are to seize and send them with the boat, carriage or cattle used in the conveyance of them, to the Magistrate of Silhat, who shall make a full inquiry into the circumstances of the case; and if he be satisfied that the articles seized are liable to confiscation under this Regulation, shall declare the same confiscated, and report his proceedings to the Governor General in Council, for his orders as to the disposal of the property or otherwise.

Magistrate to report deviations from third clause; person, not being Native inhabitant of Silhat, found to have acted contrary thereto, may be sent to Calcutta.

The Magistrate shall also report to the Governor General in Council any instances of persons, whether British subjects or others, acting in opposition to the third clause of the preceding section, for such orders as may appear necessary;

and any British subject or other European, as well as any Armenian, Greek or other person whatever, not being a Native inhabitant of the district of Silhat, who may be found to have acted in opposition to any part of section 3 of this Regulation, or who may be guilty of any misconduct in his intercourse with the hill people, will be considered to have forfeited all title to remain in the above district, and be liable, at the pleasure of Government, to be sent to Calcutta.

Reward to Police-officers and informers on seizure of contraband property.

5. The Police-officers who may seize any property declared liable to confiscation under the preceding article, shall be allowed twenty-five per cent. on the proceeds of the sale thereof; and if the seizure shall have been made upon information from any other person, the same reward shall be granted to the informer.

Their liability to be sued for

Provided, however, that if the property seized shall not be declared by the

Magistrate liable to confiscation, the person or persons who made the seizure, or who may have given any false information on which the seizure was made, shall be liable to be sued for damages by the proprietor in the zila Díwání Adálat.

damages if goods seized be afterwards found not liable to confiscation.

6. Provided also, that any person dissatisfied with the Magistrate's order for confiscation under section 4, shall be at liberty to state his objections to the Governor General in Council, who will afford such relief as may appear to him equitable, or leave the complainant to seek his remedy in the Civil Courts.

Person dissatisfied with order for confiscation may apply for relief to Government.

7.—[*Repealed by Act No. XVI of 1874.*]

8. The provisions contained in this Regulation render it unnecessary for any trader, whether Native, European or otherwise, to apply for the parwánas which have been heretofore granted by the Collector or Magistrate of Silhat to the Thánádár of Láur, for the purpose of their being supplied with chunam; and all such parwánas are hereafter expressly forbidden to be issued, as militating with the general freedom of trade meant to be established by this Regulation.

Parwánas heretofore granted to traders, &c., discontinued.

But nothing herein contained is to be understood to restrict the Magistrate of Silhat from issuing such instructions to the Police-dárogha at Láur, and to the other Police-officers within his jurisdiction, as he may consider necessary to carry into full effect the several provisions of this Regulation, or to prevent disagreements and breaches of the peace between the traders and hill people on the frontier, so that such instructions be not repugnant to this or any other existing Regulation.

REGULATION V OF 1799.

Passed on the 3rd of May 1799.

A Regulation to limit the interference of the Zila and City Courts of Díwání Adálat in the execution of wills and administration to the estates of persons dying intestate.[a]

1. DOUBTS having been entertained to what extent, and in what manner, the Judges of the Zila Courts of Díwání Adálat in the Provinces of Bengal, Bihár, Orissa and Benares, are authorized to interfere in cases wherein the inhabitants of the above Provinces may have left wills at their decease, and appointed executors to carry the same into effect, or may have died intestate leaving an estate real or personal; with a view to remove all doubts on the authority of the Zila Courts in such cases, and to apply thereto, as far as pos-

Preamble.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874. As to transfer of proceedings under this Regulation, see Act No. VI of 1871, sec. 27, *infra*.

sible, the principle that in suits regarding succession and inheritance the Muhammadan laws with respect to Muhammadans, and the Hindú laws with regard to Hindús, be the general rules for the guidance of the Judges, the Vice-President in Council has passed the following Regulation, to be considered in force from the period of its promulgation in the above Provinces respectively.

Estates of Hindús, Muhammadans and others, not being disqualified landholders, leaving wills.

2. In all cases of a Hindú, Mussulman, or other person subject to the jurisdiction of the Zila Courts, having at his death left a will and appointed an executor or executors to carry the same into effect, and in which the heir to the deceased may not be a disqualified landholder, subject to the superintendence of the Court of Wards under any Regulation relative to the jurisdiction of the Court of Wards, the executors so appointed are to take charge of the estate of the deceased, and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country, without any application to the Judge of the Díwání Adálat or any other officer of Government, for his sanction; and the Courts of Justice are prohibited to interfere in such cases, except on a regular complaint against the executors for a breach of trust or otherwise, when they are to take cognizance of such complaint in common with all others of a civil nature.[a]

Estates of persons dying intestate.

3. In case of a Hindú, Mussulman, or other person subject to the jurisdiction of the Zila Courts dying intestate, but leaving a son or other heir, who by the laws of the country may be entitled to succeed to the whole estate of the deceased, such heir, if of age and competent to take the possession and management of the estate, or if under age or incompetent, and not under the superintendence of the Court of Wards, his guardian, or nearest of kin, who by special appointment or by the law and usage of the country may be authorized to act for him, is not required to apply to the Courts of Justice for permission to take possession of the estate of the deceased as far as the same can be done without violence; and the Courts of Justice are restricted from interference in such cases, except a regular complaint be preferred, when they are to proceed thereupon according to the general Regulations.[b]

If there be more heirs than one to estate of intestate.

4. If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession, and the Courts of Justice are restricted from interference, without a regular complaint, as in the case of a single heir;

[a] So much of sections 2 and 3 as restricts the interference of Civil Courts in cases of inheritance by minors is repealed by Act No. XL of 1858. Section 2 is repealed, so far as relates to executors of persons not Muhammadans, but subject to jurisdiction of District Courts in Bengal, by the Hindú Wills Act, No. XXI of 1870, section 4.

[b] See note to section 2.

but if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the Judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession for his or their compliance with the judgment that may be passed in the suit; or in default of such security being given within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants who may be able to give such security, declaring at the same time, that such possesssion is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs, who may, on investigation, be found entitled to succeed thereto.

In what cases Judge may appoint administrator for care and management of estate of intestate.

5. In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding section, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or in the latter case, until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator or otherwise, shall attend and claim the same; when, if the Judge be satisfied that the claim is well founded, or if the same be established after any inquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.[a]

Security to be taken from, and allowances paid to, administrators.

6. In all instances of an administrator being appointed under this Regulation, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust in a sum proportionate to the extent thereof; and the Judge appointing him is authorized to fix for him (subject to the approbation of the Court of Sadr Díwání Adálat, to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon, after deducting the expenses of management.[b]

Procedure in cases of persons dying intestate.

7. The Judges of the Zila Courts, on receiving information that any person within their respective jurisdictions has died intestate, leaving personal property, and that there is no claimant to such property,[c] are to adopt such

[a, b] Modified by Regulation V of 1827, *infra*.

[c] See Act No. V of 1861, ss. 25—28.

leaving personal property to which there is no claimant.

measures as may be necessary for the temporary care of the property, and to issue an advertisement in the current languages of the country, requiring the heir of the deceased, or any person entitled to receive charge of his effects, to attend for this purpose.

Such advertisement to be published on the spot where the property was found, at the Díwání Adálat kachahrí of the zila, and, if ascertainable, at the dwelling-place of the deceased, or, if the deceased were an European, in the *Calcutta Gazette;* after which, should any person attend and satisfy the Judge of his title to the property, or to receive charge thereof as executor, administrator or otherwise, the same is to be delivered up to him, on repayment of any necessary expense incurred in the care of it.

Should no claim be preferred within the twelve months next ensuing, an inventory of the property and report of the circumstances of the case is to be transmitted to the Governor General in Council for his orders.

Saving of jurisdiction of Court of Wards.

8. Nothing in this Regulation is to be understood to limit or alter the jurisdiction of the Court of Wards in the appointment of managers or guardians for disqualified landholders, or in any case wherein a special power may be vested in the Court of Wards.

REGULATION VIII OF 1800.

Passed on the 3rd of July 1800.

A Regulation for preparing a general Pargana Register of lands; and for certain alterations in the prescribed registers of estate paying revenue, and lands held exempt from the payment of revenue.[a]

1 to 18.—[*Repealed by Bengal Act No. VII of 1876.*]

Extension of period for registration of bádsháhí grants, and assessment thereafter of all unregistered lands.

19. By section 26, Regulation XIX. 1793,[b] section 21, Regulation XXXVII. 1793,[c] and the corresponding sections in Regulations XLI[d] and XLII.[e] 1795, all lands held exempt from the payment of revenue, which the holders may have omitted to register by the time prescribed in the publication therein referred to, are become subject to the payment of revenue, unless sufficient cause be shewn, to the satisfaction of the Governor General in Council, for their not having been registered within the limited period.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

[b] See *supra*, p. 44.

[c] See *supra*, p. 53.

[d e] Repealed by Act No. XIX of 1873.

It appearing, however, that the publications directed in section 25, Regulation XIX. 1793, section 20, Regulation XXXVII. 1793, and the corresponding sections in Regulations XLI and XLII. 1795, have not in every instance been made as therein directed (namely, the publication respecting lands held under bádsháhí grants, in the principal kachahrí of the holders of such grants; and respecting other exempted lands, in the principal kachahrí of every proprietor and farmer of land paying revenue to Government; and of every Native Collector, in lands held khás by Government; or when the estate, farm or khás land may consist of two or more whole parganas, or portions of parganas, in the principal kachahrí of each pargana or portion of a pargana comprised in such estate, farm or khás land), the Collectors are hereby further directed, immediately on the receipt of this Regulation, to ascertain whether the publications above specified have been duly made as prescribed throughout their respective Collectorships; and if not, they are to cause the same to be made without delay, in the manner prescribed, as well as in their own kachahrís, and in the kachahrís of the Díwání Courts situated within their respective zilas; allowing the further period of one year from the date of such publications for the registry of the lands therein specified.

After the expiration of such period, any unregistered land found to be held exempt from the payment of revenue is to be assessed, under the provisions contained in the above Regulations, whenever the same may be discovered;

and the Collectors are to enter lands so assessed (together with all other lákhiráj lands which may be brought upon the public assessment) in their succeeding register of estates paying revenue, as well as in their register of intermediate mutations.

REGULATION X OF 1800.

Passed on the 11th of December 1800.

A Regulation for preventing the division of landed estates in the Jangal Maháls of the Zila of Mednípur and other Districts.

Preamble

1. By Regulation XI. 1793,[a] the estates of proprietors of land dying intestate are declared liable to be divided among the heirs of the deceased, agreeably to the Hindú or Muhammadan laws.

A custom, however, having been found to prevail in the jangal maháls of Mednípur and other districts, by which the succession to landed estates

[a] See *supra*, p. 30.

invariably devolves to a single heir without the division of the property, and this custom having been long established, and being founded in certain circumstances of local convenience which still exist, the Governor General in Council has enacted the following rule, to be in force in the Provinces of Bengal, Bihár and Orissa from the date of its promulgation.

Regulation XI. 1793 not to operate in jangal mahálsof Mednípur and other districts.

2. Regulation XI. 1793,[a] shall not be considered to supersede or affect any established usage which may have obtained in the jangal mahál of Mednípur and other districts, by which the succession to landed estates, the proprietor of which may die intestate, has hitherto been considered to devolve to a single heir, to the exclusion of the other heirs of the deceased.

In the mahál in question the local custom of the country shall be continued in full force, as heretofore, and the Courts of Justice be guided by it in the decision of all claims which may come before them to the inheritance of landed property situated in those mahál.

REGULATION I OF 1801.

Passed on the 15th of January 1801.

A Regulation to explain and amend part of the rules for collecting the public revenue contained in Regulations VII. 1799, and V. 1800; to expedite the sale of lands for arrears of revenue; to limit the division of property by such sales; to explain and amend the rules contained in Regulation XXV. 1793 (extended to Benares by Regulation XXVI. 1795), for the division of joint estates, and allotment of the fixed assessment thereupon; and to fix a period for the operation of such part of Regulation VIII. 1793, as authorizes the separation of certain taluqs from the zamíndárís to which they were attached at the time of the decennial settlement.[b]

1, 2.—[*Repealed by Act No. XVI of 1874.*]

3.—[*Repealed by Regulation XI of 1822.*]

4.—[*Repealed by Act No. XVI of 1874.*]

5, 6, 7.—[*Repealed by Regulation XI of 1822.*]

[a] See *supra*, p. 30.

[b] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

8. Section 10, Regulation I. 1793,[a] prescribes the general rule and principle for the allotment of the fixed assessment upon all divisions of estates, whether publicly sold or transferred by the private act of the proprietors, namely, that the assessment upon the portion of the estate to be separated shall bear the same proportion to its actual produce, as the fixed assessment upon the whole estate may bear to its actual produce.

Section 10, Regulation I. 1793, to be observed in all cases of public sale and private transfer or division.

This rule is to be strictly observed in all cases, whether of public sale or private transfer, or of division between sharers, heirs or joint proprietors of whatever description;

and it is hereby explained, that by the term "actual produce" is to be understood the neat annual rent, or other neat produce receivable by the proprietor, after deducting from the gross rent, or other gross produce, the actual expense of collection and other usual charges of management, inclusive of púlbandi or the expense of embankments, and similar incidental expenses, where such may be paid by the proprietor from his gross receipts; but exclusive of his málikána or proprietary income, and all other personal appropriations of the gross produce of his estate, as such can have no claim to consideration in determining the neat produce for an equal division of landed property, or for the allotment of the public assessment thereto in conformity to the prescribed rule.

"Actual produce" defined.

But the above Regulation further provides, that the produce to which the general rule of proportion is to be applied shall be ascertained in the mode that is or may be prescribed by the Governor General in Council; and the patwárí accounts furnished in pursuance of clause fourth of section 62,[b] Regulation VIII. 1793, for the allotment of the public revenue agreeably to the principles laid down in Regulation I. 1793,[c] having in many instances proved fallacious or unsatisfactory, and in some instances not being procurable by the officers of Government,

it is hereby enacted, that whenever the Collector or other public officer, to whom the allotment of the assessment upon the portion of an estate may be committed, shall have reason to suspect the accuracy of the village-accounts produced by a patwárí, in pursuance of clause fourth of section 62, Regulation VIII. 1793, or of any other Regulation;

Procedure of officer charged with allotment of assessment of portion of estate should he doubt accuracy of patwárí accounts, or they be not forthcoming.

or if such accounts shall be found to have been fabricated or altered, or not to be the true accounts, under the process prescribed in clause eighth of the above section and Regulation;

or if in any case the true village-accounts of the lands, rents, receipts

[a] See *supra*, p. 6. [b] See *supra*, p. 27. [c] See *supra*, p. 1.

and disbursements, may not be forthcoming, but the Collector or other officer, under the powers vested in him by clause first of section 29, Regulation VII. 1799,[a] or any other Regulation, shall have obtained satisfactory accounts for the three past years of the lands and rents of the entire zamíndárí, taluq or other estate,' with a specification of the mahál or maháls proposed to be separately assessed,

he shall adjust the assessment upon such mahál or maháls, under the general rule of proportion, according to the average neat produce (as above explained) ascertainable from the general accounts of the estate so obtained, without further regard to the village-accounts than may appear to him proper, with a view to compare and check the other accounts.

Provided, however, that in all cases the Collector or other officer shall adopt every authorized measure to obtain the most accurate accounts procurable, and shall fully satisfy himself that the accounts from which he may compute the neat produce of an estate to be divided and distinctly assessed are sufficiently accurate to prevent any risk of loss to Government from the proposed allotment of the assessment; without evidence of which no distinct assessment is to be proposed by any Collector, or approved by the Board of Revenue.

Collectors not to fix assessment on portion of estate, without Board's sanction.

Provided further, that nothing in this Regulation shall be understood to authorize the Collectors to fix the amount of the assessment to be allotted upon the portion of an estate, whether publicly or privately disposed of, without the sanction of the Board of Revenue.

Rules respecting village-patwárís, not superseded. Clauses extended to Native agents of landholders.

Moreover, nothing in this Regulation is meant to supersede the rules contained in section 62,[b] Regulation VIII. 1793, respecting the village-patwárís; and, with a view to render the same more effectual, clauses third, fourth, fifth, sixth, seventh and eighth of the above section, are hereby declared to be equally applicable to all other descriptions of Native agents employed by the landholders in the management of their estates, or in keeping any accounts of their lands, rents, receipts or disbursements.

Punishment of Native agent convicted of altering, or not delivering true, accounts.

If any such agent shall be convicted in the zila Court of having collusively fabricated or altered the accounts delivered by him, or of having wilfully delivered any other than the true accounts, the offender, besides the punishment for perjury to which he will be liable under clause eighth of the above section, shall be subject to dismission from the service of the party employing him, by order of the Court;

and such party shall be positively prohibited from again employing the

[a] Repealed by Act No. XVI of 1874.

[b] See *supra*, p. 26.

offender, under whatever penalty the Court may think proper to fix upon consideration of the circumstances of the case.[a]

9.—[*Repealed by Act No. XVI of 1874.*]

10. All purchasers of lands at the public sales are required to attend the Collector of the district wherein the lands may be situated, either in person or by their representatives duly authorized, and to execute the usual kabúliyat and kistbandi for the public revenue assessed upon the lands purchased by them. Collectors authorized to cause attendance of landholder or other Native.

In cases of doubt as to the real purchaser, the Collector is authorized to cause the personal attendance of the alleged purchaser at his kachahrí, if resident within his jurisdiction; or if the purchaser be resident in any other zila, the Collector of such zila is authorized and required to cause the attendance of the purchaser at his kachahrí on the application of the Collector in whose district the lands may lie, and to make any examination or inquiry that may be desired by the latter Collector or by the Board of Revenue, to whom a full report is to be made in such cases.

It is further hereby declared, that the Collectors are generally empowered to cause the personal attendance of any landholder or other Native inhabitant within their respective jurisdictions, when the attendance of such person may be indispensably necessary for the purpose of any authorized public inquiry, or to enable them to perform any part of their public duty, under the Regulations or instructions of the Governor General in Council or Board of Revenue.

But no Collector shall cause the personal attendance of any landholder or other person who may appoint an agent duly authorized to attend for him, if the attendance of the agent so appointed shall be sufficient for the purpose required. Not to enforce personal attendance of principal if that of agent will suffice.

Any infringement of this rule will subject the Collectors to a prosecution for damages in the Civil Courts; Effect of infringement of rule.

and whenever they may have occasion to exercise the power now declared to be vested in them, they are to issue regular summonses, under their official seals and signatures, specifying the name, designation and residence of the party summoned, and the purpose or purposes for which his attendance is required. Summons to persons whose attendance is required.

11.—[*Repealed by Regulation XI of 1822.*]

12, 13.—[*Repealed by Regulation XIX of 1814.*]

14. The rules contained in Regulation VIII. 1793,[b] for the separation of Taluqdárs considering

[a] So much of this section as relates to the appointment of patwáris is repealed, as regards the Ceded and Conquered Provinces of Bihár and Benares, the district of Katak, the pargana of Patáspur and dependent parganas, by Regulation XII of 1817.

[b] See *supra*, p. 19.

themselves entitled to have taluqs separated to apply to Collector within one year from date of Regulation.

certain taluqdárs, the actual proprietors of the lands composing their taluqs, from the zamíndáris to which they were attached at the period of the decennial settlement, having been construed to entitle taluqdárs of that description, who did not apply for separation at the time of the decennial settlement, to be separated on their application at any subsequent period; and it being necessary, for the security of purchasers at the public sales, that some period should be fixed for the operation of the above rules, to prevent their being at all times liable to deprivation of a part of their purchases, it is hereby required, that all taluqdárs who, as proprietors of the lands composing their taluqs, may consider themselves entitled, under section 5, Regulation VIII. 1793, or any other part of that Regulation, to be separated from the zamíndáris to which their taluqs are attached, shall prefer a written application to the Collector of the zila in which their taluqs may be situated for the separation thereof, within one year from the date of this Regulation, under penalty of forfeiting all title to separation under Regulation VIII. 1793, if they shall omit to apply, as directed, within the prescribed period; at the expiration of which the operation of the section above-mentioned shall be considered extinct with regard to all taluqs for which no claim to separation may have been then preferred, and such taluqs shall thereafter be considered as dependent taluqs, not entitled to be separated from the zamíndáris to which they may be attached; though, in other respects, the rights of the taluqdárs are not meant to be in any degree affected by this Regulation.

Rights of taluqdárs in other respects not affected.

Rules regarding separable taluqs, not applicable to taluq constituted since decennial settlement.

It is further hereby declared, that the rules regarding separable taluqs contained in Regulation VIII. 1793,[a] were never meant to be applied to any new taluqs constituted since the period of the decennial settlement.

By section 9, Regulation I. 1793,[b] the zamíndárs and all other proprietors of land have been declared at liberty to transfer by sale, gift or otherwise, their proprietary rights in the whole or any portion of their respective estates; but by section 10 of the same Regulation it is required that all such transfers be notified to the Collector of the zila, that the fixed jama assessed upon the whole estate may be apportioned on the several shares in the manner therein prescribed; that the names of the proprietors of each share and the jama assessed thereon may be entered upon the public registers, and that separate engagements for the payment of the jama assessed upon each share may be executed by the proprietors, who are thenceforward to be considered separate proprietors of distinct estates; but until such notification and separation shall have been made, the whole of the estate is declared responsible to

[a] See *supra*, p. 19.

[b] See *supra*, p. 6.

Government for the discharge of the fixed jama assessed upon it, in the same manner as if no transfer had taken place.

This declaration is also repeated in section 28, Regulation XXV. 1793,[a] which contains the specific rules established by Government for the division of estates paying revenue, and the allotment of the jama upon the several portions thereof.

Transfer of proprietary right in portions of estates in certain cases declared invalid as far as respects rights of Government.

If, therefore, any zamíndár shall have disposed of his proprietary rights in any portion of his zamíndárí subsequently to the promulgation of the Regulation above-mentioned, whether under the denomination of an independent taluq or otherwise, and the taluqdár or other person to whom the portion of an estate may have been so transferred, shall have omitted to obtain a separate allotment of the public assessment thereon, in the mode prescribed by the Regulations, such transfer, as far as respects the rights of Government, must be considered altogether invalid;

and if the land so privately transferred, but not separately assessed, should have been since, or shall be hereafter, included in any public sale for arrears of revenue, the illicit and imperfect private transfer must be deemed to have been altogether done away.

In such cases, the lands transferred, until publicly registered and separately assessed, form part of an undivided estate; and as such are liable to be sold for any arrear of revenue which may be due from any part of the estate.

Section not to apply to dependent tenures.

Provided, however, that nothing in this section be considered applicable to dependent taluqs, or other tenures dependent on the estate to which they are attached, and from which, by their title-deeds or otherwise, they are not entitled to be separated as a distinct estate.

REGULATION X OF 1804.

Passed on the 14th of December 1804.

A Regulation for declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-martial.[b]

Preamble.

1. WHEREAS, during wars in which the British Government has been engaged against certain of the Native Powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the

[a] Repealed by Regulation XIX of 1814.

[b] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874. The portion repealed by Act No. XVI of 1874 has been omitted.

authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government;

and whereas it may be expedient that, during the existence of any war in which the British Government in India may be engaged with any power whatever, as well as during the existence of open rebellion against the authority of the Government, in any part of the British territories subject to the Government of the Presidency of Fort William, the Governor General in Council should declare and establish martial-law within any part of the territories aforesaid, for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms, in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified;

the following Regulation has been enacted by the Governor General in Council, to be in force throughout the British territories immediately subject to the Government of the Presidency of Fort William, from the date of its promulgation.

Power in time of war to suspend functions of ordinary criminal courts, and establish martial-law;

2. The Governor General in Council is hereby declared to be empowered to suspend, or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary criminal courts of judicature, within any zila, district, city or other place, within any part of the British territories subject to the Government of the Presidency of Fort William, and to establish martial-law therein, for any period of time while the British Government in India shall be engaged in war with any Native or other Power, as well as during the existence of open rebellion against the authority of the Government, in any part of the territories aforesaid;

and to direct immediate trial by courts-martial of lieges offending against Regulation.

and also to direct the immediate trial, by courts-martial, of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents, within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.

Lieges convicted by court-martial

3. It is hereby further declared, that any person born or residing under the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of

the obligations of such allegiance, shall be guilty of any of the crimes specified in the preceding section and who shall be convicted thereof by the sentence of a court-martial, during the suspension of the functions of the ordinary criminal courts of judicature and the establishment of the martial-law, shall be liable to the immediate punishment of death, and shall suffer the same accordingly, by being hung by the neck till he is dead.

of crime specified in section 2 liable to immediate punishment of death;

All persons who shall, in such cases, be adjudged by a court-martial to be guilty of any of the crimes specified in this Regulation, shall also forfeit to the British Government all property and effects, real and personal, which they shall have possessed within its territories, at the time when the crime of which they may be convicted shall have been committed.

and to forfeiture of property.

4. The Governor General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary courts of judicature, instead of causing such persons to be tried by courts-martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary.

Governor General not precluded from causing persons charged with offences to be tried by ordinary Courts.

REGULATION XII OF 1805.

Passed on the 5th of September 1805.

A Regulation for the settlement and collection of the public revenue in the Zila of Katak, including the Parganas of Paṭáspur, Kamardáchor and Bográí, at present included in the Zila of Mednípur.

1. WHEREAS it is necessary that fixed rules should be established for the settlement and collection of the public revenue in the zila of Katak:

And whereas the principles of justice and good faith require that the declarations made by the late Board of Commissioners to the several descriptions of zamíndárs, taluqdárs, farmers and other holders of land, should be formally recognised and confirmed:

Preamble.

And whereas it has been judged to be advisable to extend the Regulations in force for the settlement and collections of the public revenue in the Province of Bengal, with certain modifications and exceptions, to the zila of Katak: the following rules have been enacted, and are to be in force from the period of the promulgation of this Regulation.

2. On taking possession of the country, the Commissioners deemed it to be necessary to adopt the surest means of preserving uninjured the rights of

Recapitulation of settlement.

arrangements for 1210 and 1211 Wiláiyatí.

the different landholders in the territory called Mogalbandí, being that part of the zila of Katak in which, according to established usage, as in Bengal, the land itself is responsible for the payment of the public revenue, and in which every landholder holds his lands subject to the conditions of that usage.

With this view, the Commissioners issued a publication, signifying that all those persons who were in possession of the lands at the close of the Amlí year 1210 (corresponding with the Wiláiyatí year 1210) should continue in possession during the year 1211.

The Commissioners also declared all demands for balances of former years to be cancelled, and they ordered the amount of the revenue payable by the respective zamíndárs on account of the year 1211, Amlí (corresponding with the Wiláiyatí year 1211) to be ascertained and established according to the rate of the receipts of former years; granting a deduction of the amount of some oppressive abwábs and other exactions, and allowing for losses sustained by the raiyats from the failure of the first crop of that season, and also for such part of the revenue of the current year as had been previously collected by the Mahrátha Government.

Confirmation of same.

3. The arrangements adopted by the Commissioners with respect to the settlement of the revenue for the years 1210 and 1211, Amlí (corresponding with the years 1210 and 1211, Wiláiyatí), together with the abatements from the jama and the remissions of revenue granted by the Commissioners in those years, are hereby confirmed.

Proclamation regarding land-revenue in Mogalbandí territory.

4. The following proclamation, relative to the settlement of the land-revenue in the Mogalbandí territory of the zila of Katak, was published on the 15th of September, 1804, by the Board of Commissioners, in virtue of the powers vested in them.

"PROCLAMATION.—Katak, September 15, 1804.

"*First.*—Whereas it is the intention of the British Government to adopt, at the expiration of the present Amlí year, such a plan for the settlement of the landed revenue of the Province of Katak, as may be most conducive to the prosperity of the country and to the happiness of the inhabitants:

"And whereas it is of the utmost consequence to the success of the measure, as well as to the interest of the zamíndárs, taluqdárs and all others concerned, that the nature and terms thereof should be made known as early as possible, notice is hereby given:

"*Second.*—That at the commencement of the Amlí year 1212, the sáír of every denomination will be separated from the mál or land-revenue, and a

settlement for the latter only concluded in all practicable cases with the zamíndárs or other actual proprietors of the soil (unless when disqualified by notoriously bad character or other good and sufficient cause), for a period of one year, it being understood that all zamíndárs and other landholders, and all khaṇḍáits, shall for the present, and during the pleasure of Government, continue to perform the same duties of Police for the prevention of robberies, murders and crimes of that nature, and for the preservation of peace and good order within their respective limits, and to be subject to the same responsibility as heretofore.

"*Third.*—That at the expiration of the year 1212 another settlement will be made with the same persons (if willing to engage, and they shall have conducted themselves to the satisfaction of Government) for three years, at a fixed equal annual jama, which jama shall be formed upon a just and moderate consideration of the receipts in the year 1212 and former years.

"*Fourth.*—That at the expiration of the fourth year a new settlement will be made with the same persons (if willing to engage, and they shall have conducted themselves to the satisfaction of Government), for a further period of four years, at a fixed annual jama, formed by adding to the annual rent of the preceding lease of three years, two-thirds of the nett increase of revenue during any one year of that period.

"*Fifth.*—That at the end of the lease for four years (which will be in the Amlí year 1219) a further settlement for the period of three years will be concluded with the persons in possession (if willing to engage, and they shall have conducted themselves to the satisfaction of Government), at a jama to be formed by adding to the annual rent of the preceding lease of four years, three-fourths of the nett increase of revenue during any one year of that period.

"*Sixth.*—That at the end of these eleven years, which will be in 1222, a permanent settlement will be concluded with the same persons (if willing to engage, and they have conducted themselves to the satisfaction of Government, and if no others who have a better claim shall come forward), for such lands as may be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government shall deem fair and equitable.

"*Seventh.*—The nánkár lands of those zamíndárs who may decline entering into engagements for their estates, as also of those whose offers may be rejected by Government, will be subject to the payment of revenue equally with other lands in the district; but such zamíndárs shall, for the present, continue to receive in money an equivalent for what they have hitherto received as nánkár from the Mahrátha Government.

"*Eighth.*—That with respect to such zamíndárís as may have been mortgaged or transferred in security, and possession thereof actually given to the mortgagees or securities, the settlement will be made with the person in possession of the land, as the temporary representative of the proprietor, leaving the latter to obtain possession, either by a private settlement of accounts or by a judicial process.

"*Ninth.*—That the settlement of such small taluqs or zamíndárís as may be only nominally included in large zamíndárís, in the sadr jama of which their jama may be comprehended, will be made separately and distinctly with the proprietors of such small estates, and they will be allowed to pay their revenue directly to the Collector, or the person appointed by him to receive it; and in all cases where the revenue of a village has, for upwards of five years past, been paid direct to Government by the hereditary mukaddam, the settlement for such village will be made with the hereditary mukaddam.

"*Tenth.*—That with respect to such lands as are without proprietors, or the proprietors of which decline entering into engagements, a village-settlement shall be made, and a preference given to the hereditary mukaddams of those villages to which the lands belong; but no settlement is to be made with a mukaddam for lands not included in his mukaddami.

"*Eleventh.*—That in the event of neither proprietors, mukaddams, nor other respectable raiyats, being forthcoming, such lands as are in that predicament will be held khás.

"*Twelfth.*—That all authorized abwábs are to be consolidated and incorporated with the land-rent, and expressed in the pattás and kabúliyats, and that nothing but what is there expressed shall be collected from the raiyats or under-renters.

"*Thirteenth.*—That all persons who may enter into engagements for the settlement must bind themselves by written obligations to grant pattás of the above description to their raiyats and under-renters.

"*Fourteenth.*—That all persons who may enter into engagements with Government must previously give security for the fulfilment thereof in an amount equal to the largest kist of their annual jama.

"*Fifteenth.*—Several of the tributary Rájás have been accustomed to furnish guards, and be responsible for all robberies committed within the Mogalbandí lands bordering on their respective territories, and for which they have formerly been allowed to levy a tax, called chaupani or mangan khaṇḍáití: those Rájás are to continue to furnish the usual guards and be subject to the same responsibility as heretofore; but instead of being permitted to levy the above-mentioned tax, the said Rájás will, until further arrangements can be made, receive an equivalent in money from Government.

"*Sixteenth.*—Such being the provisions made for the preservation of the rights of the zamíndárs, raiyats, &c., &c., and for the effectual prevention of undue exaction, there cannot be a doubt that confidence in the protection of Government will be established amongst all ranks of people, that cultivation will be extended, and that the general prosperity of this Province will rapidly increase."

Confirmation of rules, &c., in proclamation.

5. The rules, orders and declarations contained in the above proclamation are hereby confirmed, with the following qualifications and explanations.

Explanation of rule regarding addition to jama of portion of increased produce in concluding future settlements.

With the view of obviating any misconstruction of the rule to be adopted, in adding to the jama a portion of the increased produce, in concluding the settlements to be formed at the commencement of the Wiláiyatí years 1216 and 1220 (corresponding with the years 1216 and 1220, Amlí), it is hereby declared, in explanation of the third and fourth clauses of the proclamation issued on the 15th of September, 1804, that the amount of the nánkár to which zamíndárs are or may be entitled, under their original engagements, for the first triennial settlement, shall be deducted from the actual yearly produce of their estates at the time of the expiration of each lease; and that the actual increase of public revenue to be assessed agreeably to the clauses above specified, shall be calculated on the amount of the difference between the actual nett produce after such deduction, and the annual amount of the former lease.

It is at the same time provided, that the portion of the increased produce relinquished to the zamíndárs under the above-mentioned clauses, on the formation of the successive settlements, shall be considered to preclude all claim on the part of the zamíndárs to any further proportion of such increased produce on account of nánkár, in addition to the deduction originally made and continued to them on this account.

Restoration of zamíndárs, &c., whose lands have been held khás, to management of them.

6. The lands of some zamíndárs, independent taluqdárs and other actual proprietors of lands having been held khás or let in farm, in consequence of their refusing to pay the assessment required from them under the proclamation inserted in section 3 of this Regulation, the Governor General in Council hereby notifies to the zamíndárs, independent taluqdárs and other actual proprietors of land whose lands are held khás, that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which shall be required from them, in conformity to the prescribed rules for the settlement of the land-revenue.

Period for completing adjustment and delivery of pattás.

7. In explanation of the provision contained in the 13th article of the above proclamation, it is hereby declared, that as a sufficient period of time will have elapsed during the first triennial settlement of the land-revenue in the zila of Katak (which will expire with the Wiláiyatí year 1215), to enable

the proprietors and farmers of land to complete the adjustment and delivery of pattás for the whole of their lands in the mode prescribed, the expiration of the Wiláiyatí year 1215 is the period fixed for the general delivery of pattás.

Bar to resumption of lands assigned as endowments of temple of Jagannáth, &c.,

8. Nothing contained in this Regulation shall be construed to authorize the resumption of the rents of any lands assigned under grants from the Rájá of Birár, or from any zamíndár, taluqdár or any actual proprietor of land in the zila of Katak, as endowments of the temple of Jagannáth, or of Matths in the vicinity of that temple, or for similar purposes;

provided, however, that any fixed quit-rent which the holders of such lands are bound to pay by the conditions of their grants shall continue to be paid agreeably to former usage.

and of rents of lands assigned for maintenance of certain sardár paiks, &c.

9. Nothing contained in the foregoing proclamation shall be construed to authorize the resumption of the rents of any lands at present appropriated to the maintenance of certain sardár paiks and other paiks for the support of the Police;

provided, however, that any fixed quit-rent which may be at present payable by such sardár and other paiks, conformably to the tenor of their grants, shall continue to be paid agreeably to established usage.

Preparation of registers of landed property.

10. The Collectors of the Revenue in the zila of Katak shall be guided, in preparing the different registers of landed property in that zila, by the Regulations in force for that purpose in the Province of Bengal; provided, however, that the first periodical register to be prepared shall commence with the Wiláiyatí year 1216, and shall exhibit the estates, and the required particulars respecting them, as they may stand at the commencement of that year.

The periodical register to be formed at the commencement of the Wiláiyatí year 1211, and every succeeding five years, shall exhibit the estates as they may stand at that and each subsequent period.

Numbering of registers.

11. The register to be first formed, and to commence with the Wiláiyatí year 1216, shall be numbered two; the register to be next formed, commencing with the Wiláiyatí year 1211, shall be numbered one; the register to be next formed at the commencement of the Wiláiyatí year 1221, shall be numbered three: and every subsequent periodical register in the order in which it may be formed.

12 to 16.—[*Repealed by Act No. XVI of 1874.*]

Modifications of Regulation XIX. 1793.

17. The following rules, containing modifications of the provisions contained in Regulation XIX. 1793,[a] respecting lands exempt from the payment of revenue under grants not being bádsháhí or royal, shall be in force in the zila of Katak.

[a] See *supra*, p. 32.

Validity of grants of alienated lands made before 14th October, 1791.

18. *First.*—All grants for holding land exempt from the payment of revenue, made previously to the 14th day of October, 1791, corresponding with the 30th Ásin, 1198, Bengal era; the 3rd Kártik, 1199, Faslí; the 30th Ásin, 1199, Wiláiyatí; the 3rd Kártik, 1848, Sambat; and the 15th Safr, 1207, Hijrí, by whatever authority, and whether by a writing or without a writing, shall be deemed valid, provided that the grantee actually and *bonâ fide* obtained possession of the land so granted, and held it exempt from the payment of revenue, previously to the date above-mentioned, and that the land shall not have been subsequently rendered subject to the payment of revenue by the officers or the orders of the Government.

If it shall be proved to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue previously to the date above specified, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.

Validity of grants made after 14th October, 1791, and confirmed or admitted before 14th October, 1803.

Second.—All grants for holding land exempt from the payment of revenue, which may have been made subsequently to the 14th day of October, 1791, and prior to the 14th day of October, 1803, by whatever authority, and which may have been confirmed or expressly admitted antecedently to the 14th day of October, 1803, by the authority of the existing Government, shall be deemed valid, provided the grantee actually and *bonâ fide* obtained possession of the land so granted, and held the same exempt from the payment of revenue, previously to the 14th of October, 1803, and the land shall not have been afterwards rendered subject to the payment of revenue by the officers or the orders of the late Government.

If it shall be proved, to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue, previously to the 14th day of October, 1803, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of the late Government, the grant shall not be deemed valid.

Reference of doubtful claims to Governor General.

Third.—In the event of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made previously to the 14th day of October, 1791, or under a grant made subsequent to that date, but prior to the 14th day of October, 1803, and confirmed or admitted by the authority of the existing Government, and of its being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previously to the date specified, but that it was afterwards

subjected to the payment of revenue by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject the land to the payment of revenue, the Court shall suspend its judgment, and report the circumstances to the Governor General in Council, to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue; and upon receiving the determination of the Governor General in Council, the Court is to decide accordingly.

In like manner, the Governor General in Council reserves to himself the power of determining, in cases of doubt, whether any officer of the Rájá of Birár who may have made, confirmed or admitted grants of land exempt from the payment of revenue, in the name or on the part of the Rájá, was competent to exercise such authority.

The courts of judicature shall accordingly suspend their judgment in cases of the above nature, and report the circumstances for the decision of the Governor General in Council.

Rules respecting grants for life only.

Fourth.—But no part of the three preceding clauses shall be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold land now paying revenue to Government, exempt from the payment of revenue, under any grant made previously to the 14th day of October, 1803, the writing for which may expressly specify it to have been given for the life of the grantee only;

or supposing no such specification to have been made in writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usage of the country.

Heirs of present possessors.

Fifth.—Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue, under whatever grant, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Nor to entitle the heirs to any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise, unless it shall be proved, to the satisfaction of the Court, that the grant, from the

nature and denomination of it, is hereditary, according to the ancient usages of the country.

But upon the demise of the present possessor of any such grant, which may be adjudged not hereditary under this clause, if it shall appear that one or more successions, in virtue of whatever right, shall have taken place before the 14th day of October, 1803, the lands shall not be subjected to the payment of revenue under the decree without the sanction of the Governor General in Council, to whom a copy of the proceedings and decree of the Court is to be transmitted, and to whom is reserved a power of declaring the lands subject to the payment of revenue, or not, as may appear to him proper.

Present possessors not to transfer or mortgage grants.

Sixth.—The present possessors of lands held exempt from the payment of revenue, under all life-grants declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives; and all such transfers and mortgages are declared illegal and void.

Exemption of certain grants for religious or charitable purposes.

Seventh.—Provided, however, that nothing herein contained shall authorize the subjecting to the payment of revenue any quantity of land not exceeding ten bíghás, held exempt from the payment of revenue under a grant made prior to the 14th day of October, 1803, and *boná fide* appropriated as an endowment for temples or for other religious or charitable purposes.

Moreover, if any land so held and appropriated, exceeding ten bíghás, shall become liable to assessment under the rules contained in this Regulation, and the Judge of the Court before which the suit for the assessment of such land may be depending, or the Collector of the district, if no judicial suit respecting it be depending, shall be of opinion that the immediate assessment of such land would be productive of distress, he shall report the same, with the circumstances of the case, for the consideration of the Governor General in Council.

Courts not to take cognizance of certain claims to hold exempted lands.

Eighth.—The Courts of Justice shall not take cognizance of any claim to hold exempt from the payment of revenue, under the present Regulation, land which may have been subjected to the payment of revenue for the period of twelve years prior to the 14th of October, 1803; nor of any claim to hold land exempt from the payment of revenue, which may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, unless the claimant can show good and sufficient cause for not having preferred his claim to a competent jurisdiction within that period.

Grants of land exempt from revenue, made since

19. All grants for holding land exempt from the payment of revenue, which may have been made since the 14th day of October, 1803, corresponding with the 29th Ásin, 1210, Bengal era; the 14th Kártik, 1211, Faslí; the

14th October, 1803 and not confirmed, declared invalid.

29th Ásin, 1211, Wiláiyatí; the 14th Kártik, 1860, Sambat; and the 27th Jamádi-us-Sáni, 1218, Hijrí, by any other authority than that of the British Government, and which may not have been confirmed by the Governor General in Council or by an officer empowered to confirm them, are declared invalid.

Procedure in case of doubt of authority of officer confirming grant.

20. If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the Governor General in Council, to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise; and the Court, upon receiving the determination of the Governor General in Council, shall decide accordingly.

Assessing lands resumed under sections 18 to 20.

21. The following rule shall be in force in the Province of Katak, for assessing land declared subject to the payment of revenue to Government, under the three foregoing sections of this Regulation :—

Revenue to belong to Government.

22. *First.*—The revenue assessable on all lands which shall be adjudged or become liable to the payment of revenue, under sections 18, 19 and 20 of the present Regulation, is declared to belong to Government.

Assessment regulated by rules for settlement of revenue-paying lands.

Second.—The revenue payable to Government shall be regulated by the rules prescribed by this Regulation, for concluding the settlement of lands paying revenue to Government, and by any subsequent rules which may be prescribed relative to the assessment of lands subject to the payment of revenue to Government.

Procedure in case proprietor refuses to agree to assessment.

If the proprietor shall not agree to the assessment so fixed, a report of his objections, and of the circumstances of the case, shall be made by the Collector of the district, through the Board of Revenue, for the information of the Governor General in Council, who will determine on the amount of the assessment; and if the proprietor shall refuse to engage for the same, the lands shall be let in farm or held khás, under the rules contained in the existing Regulations.

Periods fixed for registering grants and preparing periodical registers.

23. The period of one year, reckoning from the expiration of the current Wiláiyatí year 1212, shall be allowed to the proprietors to register their grants.

On the expiration of that period of time, the Collectors shall prepare the first periodical register of lands held exempt from the payment of revenue; and the second, third and each successive register, at the expiration of every five years.

Regulation XIX, 1793 in force in Katak.

24. All the provisions contained in Regulation XIX. 1793,[a] regarding lands exempt from the payment of revenue to Government under grants not being

[a] See *supra*, p. 32.

bádsháhí or royal, which are not superseded by the foregoing rules, are hereby declared to be in force in the zila of Katak.[a]

25. The following rules containing modifications of the provisions contained in Regulation XXXVII. 1793,[b] respecting lands held exempt from the payment of revenue under bádsháhí or royal grants, shall be in force in the zila of Katak; and all the provisions of that Regulation which are not superseded and rendered of no effect by the following rules, shall be considered to be in force in the said zila.

Also Regulation XXXVII. 1793.

26. *First.*—The term bádsháhí grant shall be construed to extend to all grants made by the supreme power for the time being, and consequently to include grants of the following descriptions:—First, royal grants properly so called; secondly, grants made by the Súbah of Orissa; and thirdly, grants made by the Rájás of Birár.

Bádsháhí grant defined.

Second.—Altamghá, jágír, aima, madadmásh, or other bádsháhí grants, for holding land exempt from the payment of revenue, made previous to the 14th October, 1803, shall be deemed valid, provided the grantee actually and *bonâ fide* obtained posesssion of the land so granted previous to that date, and the grant shall not have been subsequently resumed by the officers or the orders of Government.

Bádsháhí grants made before 14th October, 1803, declared valid.

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted previous to the 14th October, 1803, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid.

Third.—In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue under a bádsháhí grant made previous to the 14th October, 1803, and on its being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him to resume the grant and subject the lands to the payment of revenue, the Court shall suspend its judgment, and report the circumstances to the Governor General in Council, to whom a power is reserved of determining whether such officer was or was not competent to resume the

Procedure in case of doubt as to authority of officer resuming grants.

[a] Partially repealed by Act No. X of 1859, section 28.
[b] See *supra*, p. 46.

grant; and upon receiving the determination of the Governor General in Council, the Court is to act accordingly.

Rules respecting grants for life only.

Fourth.—But no part of the preceding clauses shall be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold land paying revenue to Government exempt from the payment of revenue under a jágír or other grant made previous to the 14th October, 1803, where the grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usages of the country.

Fifth.—Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue, under a jágír or other bádsháhí life-grant made previous to the 14th October, 1803, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Present possessors not to transfer or mortgage grants.

Sixth.—The present possessors of lands now exempt from the payment of revenue, under such jágír or other life-grants made previous to the 14th October, 1803, and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of the lands for a longer period than their own lives; and all such transfers and mortgages which have been or may be made, are declared illegal and void.

Grants made since 14th October, 1803, and not confirmed, declared invalid.

27. All bádsháhí grants for holding land exempt from the payment of revenue, which may have been made since the 14th October, 1803, by any other authority than that of the British Government, and which may not have been confirmed by Government, or by an officer empowered to confirm them, are declared invalid.

Procedure in case of doubt of authority of officer confirming grant.

28. If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the Governor General in Council, to whom a power is reserved of determining finally, whether the officer possessed competent authority to confirm the grant or otherwise; and the Court, upon receiving the determination of the Governor General in Council, shall decide accordingly.

Periods fixed for registering grants and

29. The period of one year, reckoning from the expiration of the Wiláiyatí year 1212, shall be allowed to the proprietors to register their grants. On the

expiration of that period of time, the Collectors shall prepare the first periodical register of lands held exempt from the payment of revenue under bádsháhí tenures; and the second, third and each successive register, at the expiration of every five years. preparing periodical registers.

30. The rules contained in Regulation XXIV. 1793,[a] for deciding on the claims of persons to the continuance of pensions and allowances granted for religious purposes, shall be considered to be in force in the zila of Kaṭak, in common with other Regulations extended to that zila by section 36 of this Regulation. Operation in Kaṭak of rules in Regulation XXIV. 1793, for deciding on claims to pensions, &c.

Provided, however, that in cases in which persons may have obtained pensions from the Government of Birár, under grants made previous to the 14th of October, 1803, such pensions shall be continued to the present incumbents, and will either descend to their heirs and successors, or will revert to Government on the decease of the present incumbents, as shall appear to the Governor General in Council, on a consideration of the tenor of the grant and all the circumstances of the case, to be proper under section 4, Regulation XXIV. 1793.[b]

Provided, likewise, that in cases in which persons shall have been in the actual receipt of pensions during a period of three or more years antecedent to the 14th of October, 1803, under whatever authority, such pensions shall be continued to the present incumbents during their respective lives, but shall revert to Government on the decease of the present incumbents, unless any particular reasons shall appear to the Governor General in Council to exist for continuing the said pensions to their heirs and successors.

Provided, also, that nothing herein contained shall be construed to authorize the resumption of the established donation for the support of the temple of Jagannáth, the charitable donation to the officers of certain Hindú temples, called Anuchattrí, and the allowance granted for the support of the Hindú temple at Katak, called Sítárám Thákur Bárí.

31. The settlement of the land-revenue of the zila of Katak having been ordered to be made with the exclusion of all sáir-duties, all duties of that description are hereby abolished in the said zila; with the exception of the tax on the sale and consumption of spirituous liquors and intoxicating drugs, and the duties levied from pilgrims at Jagannáth: and the rules contained in Regulation XXVII. 1793,[c] for preventing the collection of any chalantá, rahdárí, or other duties, by the zamíndárs, taluqdárs, farmers and other holders of land in the Province of Bengal, are hereby declared to be in force in the zila of Katak. Collection of sáir, &c., abolished.

[a, b] Repealed by Act No. XXIII of 1871.
[c] Repealed by Act No. XXIX of 1871.

It is also hereby declared, that, in conformity to the spirit and principle of clause tenth of section 2 and the rules contained in section 6, Regulation XXVII. 1793,[a] it is the intention of Government to grant adequate compensations to all persons who derived advantages from the late sáir-duties under competent authority from the Government of Birár, or in conformity to long and established usage.[b]

32.—[*Repealed by Act No. XVI of 1864.*]

Sanads granted to certain zamíndárs confirmed.

33. The Commissioners having granted sanads to certain zamíndárs, entitling them to hold their estates at a fixed jama in perpetuity, those sanads are hereby confirmed. The following is a list of the names of the zamíndárs to whom this provision is to be considered applicable:

Zamíndár of Qil'a Darpan,
Ditto of ditto Sukindá,
Ditto of ditto Madhupur.

Also sanad granted to Fateh Muhammad, jágírdár of Málud.

34. The Commissioners having likewise granted a sanad to Fateh Muhammad, jágírdár of Málud, entitling him and his heirs for ever, in consideration of certain services performed towards the British Government, to hold his lands exempt from assessment, such sanad is hereby confirmed.

Also settlement concluded with certain hill and jangal zamíndárs.

35. *First.*—The late Board of Commissioners having concluded a settlement of the land-revenue with certain zamíndárs, whose estates are situated chiefly in the hills and jangals, for the payment of a fixed annual quit-rent in perpetuity, those engagements are hereby confirmed; and no alteration shall, at any time, be made in the amount of the revenue payable under the engagements in question to Government.

Second.—The following is a list of the maháls to which the provision in the preceding clause is applicable:

Qil'a Aull, [Álí?],	Qil'a Hamishpore [Harispur?]
Ditto Kujan,	Ditto Marichpur,
Ditto Puttra [Pátiyá?]	Ditto Visunpur.

Like settlement to be concluded with zamín-

Third.—The zamíndárís of Korda[c] and Kanka[d] being maháls of the description of those specified in the preceding clause, a settlement shall be concluded, as soon as circumstances may admit, for the revenue of those maháls on the

[a] Repealed by Act No. XXIX of 1871.

[b] So much of this section as provides for the continuance of the duties levied from pilgrims at Jagannáth is repealed by Act No. X of 1840.

[c] Khordha?

[d] Kanká?

principle on which a settlement has been concluded with the zamíndárs of the mahálsspecified in the preceding clause. dárs of Korda and Kanka.

36. All Regulations relating directly or indirectly to the settlement and collection of the public revenue, or to the conduct of the officers employed in the performance of that duty, whether European or Native, in the Province of Bengal, which are not superseded by the foregoing rules, are hereby extended to, and declared to be in force in, the zila of Katak. Regulations regarding settlement or collection of revenue, &c., in Bengal in force in Katak. Exceptions.

Provided, however, that nothing herein contained shall be construed to authorize the division of the lands comprised in any estates in the zila of Katak, in which the succession to the entire estate devolves according to established usage to a single heir: in cases of this nature, the Courts of Justice are to be guided by the provisions contained in Regulation X. 1800.[a]

Provided, also, that nothing herein contained shall be construed to imply, that any part of the said Regulations are for the present to be considered to be in force in certain jangal or hill zamíndárís occupied by a rude and uncivilized race of people, with the proprietors of which estates engagements were formed by the late Board of Commissioners for the payment of a certain fixed quit-rent or tribute to Government.

The following is a list of the names of the mahálsto which this exemption from the operation of the general Regulations is to be considered applicable:

Qil'a Nílgiri,	Qil'a Tálcher,	Qil'a Ranpur,
Ditto Bánki,	Ditto Áthgar,	Ditto Hindol,
Ditto Jurmu [Jurinu?]	Ditto Keonjhar,	Ditto Tígiriyá,
Ditto Narsinghpur,	Ditto Khantápárá,	Ditto Barambá,
Ditto Angul,	Ditto Nayágar,	Ditto Dhenkánál.

37. The foregoing exemption from the operation of the general Regulations shall likewise, for the present, be considered to be applicable to the lands known by the appellation of the territory of Mayurbhanj; but it shall be the duty of the Collector of the zila to conclude a settlement with the proprietor of that estate for the payment of a fixed annual quit-rent, on the principles on which a settlement has been concluded with the other hill or jangal zamíndárs specified in the preceding section. Similar exceptions applicable to the territory of Mayurbhanj.

[a] See *supra*, p. 67.

REGULATION XIII OF 1805.

Passed on the 5th of September 1805.

A Regulation for the maintenance of the peace and for the support and administration of the Police in the Zila of Katak, and for amending certain provisions contained in Regulation IV. 1804.

Preamble.

1. WHEREAS it is essential to the security of the persons and property of the inhabitants of the districts and lands included in the Province of Katak and its dependencies, that a regular and efficient system of Police should be maintained in the said Province:

And whereas it was the practice in the said Province, when under the Mahrátha Government, to vest the immediate maintenance of the peace in certain sardár paiks, also called khaṇḍáits, aided by inferior paiks under the orders and control of the said sardárs, for whose support lands were assigned under the orders and authority of the said Government:

And whereas the general control of the said sardárs and other paiks was vested at the time of the conquest of the Province of Katak by the British arms in the zamíndárs, taluqdárs, farmers and other holders of land, within the limits of their respective estates and farms, excepting in cases in which they had been specifically deprived of the charge of the Police by the said Government, either for misconduct or for inability to perform the duty intrusted to them, or for other substantial reasons:

And whereas, in such cases, it was usual to vest the general charge of the Police, within certain established limits, in the said sardár paiks or khaṇḍáits above-mentioned:

And whereas experience has demonstrated that the system of Police at present established in the Province of Katak is well calculated for the prevention of crimes and for the maintenance of the general tranquillity of the country;

the following rules have been enacted, to be immediately in force in the Province of Katak, including the parganas of Paṭáspur, Kamardáchor and Bográí.

Zila of Katak.

2. The districts and lands comprised in the Province of Katak, with the exception of the parganas of Paṭáspur, Kamardáchor and Bográí, shall be denominated the zila of Katak.

Certain parganas included in

3. The above-mentioned parganas of Paṭáspur, Kamardáchor and Bográí, shall be included, as at present, in the zila of Mednípur; subject, however,

to all the laws and regulations which have been or may be enacted for the internal government of the zila of Katak; provided, nevertheless, that it shall at any time be lawful for the Governor General in Council, by an order in Council, to make any alteration with respect to the boundaries of the said zilas of Mednípur and Katak, which may appear to be expedient.

zila of Mednípur, but subject to Regulations enacted for Katak.

4. *First.*—The following rules shall be observed in the appointment of dároghas for the maintenance of the Police in the zila of Katak, and in the above-mentioned parganas of Paṭáspur, Kamardáchor and Bográí.

Rules for appointment of dároghas.

Second.—In cases in which the zamíndárs, taluqdárs and other landholders, have not been formally divested of the charge of the Police within the limits of their respective estates, for misconduct or any other reason, either by the late Marátha Government or by the Board of Commissioners for the settlement of the affairs of Katak, such zamíndárs, taluqdárs and other landholders shall continue, under the responsibility stated in section 6, Regulation IV. 1804,[a] in charge of the Police, according to established usage, within their respective estates; that is, the principal zamíndárs, taluqdárs and other landholders, being proprietors of large estates, shall be constituted dároghas of Police within the limits of their respective possessions; and the inferior zamíndárs, taluqdárs and other landholders, being proprietors of petty estates, shall be considered to be subordinate officers of Police, subject to the above-mentioned responsibility, under the immediate authority of dároghas, who shall be selected and appointed for the maintenance of the Police in estates or maháls of the latter description.

Certain zamíndárs to continue to act as Police-officers in their respective estates.

Third.—In cases in which any of the zamíndárs, taluqdárs and other landholders, have been divested of the charge of the Police (as above noticed) within the limits of their respective estates, one, two or more khaṇḍáits or sardár paiks, according to the extent of such estates, shall, in conformity to established usage, be vested with the immediate maintenance of the peace, the apprehension of public offenders, and other duties of that description, within the limits of the said estates; subject, nevertheless, to the control of dároghas, who shall be appointed for the superintendence of the Police and the general control of the conduct of the said khaṇḍáits and all inferior officers of Police, within the limits of the authority of the said dároghas respectively.

In what cases khaṇḍáits to be nominated to the charge under control of dároghas.

Fourth.—The dároghas who may be appointed under clauses second and third of this section, shall receive such salaries as the Governor General in Council may think proper to fix for their support, on a consideration of the labour and responsibility of the offices held by them.

Salaries of dároghas.

[a] Repealed by Act No. VIII of 1868.

Lands assigned by the late Government for the maintenance of the sardárs and other paiks to be continued to them.

5. Certain lands having been assigned by the authority of the late Government for the maintenance of the said sardár paiks and inferior paiks, under the control of such sardárs, for the support of the general Police of the country, those lands shall be continued to the said sardár and other paiks for the purposes to which they have been hitherto appropriated.

It is to be understood, however, that all officers of that description shall be considered subject to the authority of the dároghas of Police, whether zamíndárs or others, within their respective limits, and shall be bound to conform to all legal orders which may be issued to them by such dároghas, conformably to the powers with which the dároghas may be invested.

It is further to be understood, that any sardár or other paik will be liable to be dispossessed of his lands for any disobedience of orders, neglect of duty, undue violence, or other misconduct;

provided, however, that whenever a Magistrate shall be of opinion that any khaṇḍáit or sardár paik ought to be dismissed from his office, or whenever the place of such officer shall become vacant from death or any other cause, the Magistrate shall report the circumstances of the case to the Nizámat Adálat, who will pass such orders on the subject as shall appear to them to be proper, under the general powers vested in them by Regulation V. 1804;[a]

provided, likewise, that whenever any vacancy shall occur among the inferior paiks, either from dismissal, death or otherwise, the places of such paiks shall be supplied by the sardár paik, on declaring himself to the Magistrate responsible for the conduct of the person recommended by him.

Register of the sardár and other paiks.

6. It shall be the duty of the dároghas of Police, whether zamíndárs or others, under the guidance and instructions of the Magistrates, to form a complete register of the sardár and other paiks within the limits of the authority of the said dároghas respectively.

Dároghas to fix limits of local authority of the khaṇḍáits, &c.

7. It shall further be the duty of the dároghas of Police to ascertain and fix, under the orders of the Magistrates, the limits of the local authority of the khaṇḍáits or sardár paiks, and of the inferior officers of Police attached to the said sardárs, so that every part of the Province of Katak, whether consisting of lands paying revenue to Government or of lands exempt from the payment of revenue, may receive the protection of the subordinate officers of Police, under the directions of the dároghas and the general control of the Magistrates.

Zamíndárs, &c., not exempted from affording assistance to

8. Nothing contained in this Regulation shall be construed to exempt the zamíndárs, taluqdárs, farmers and other holders of land, although they be not formally constituted officers of Police, from the duty of affording every assist-

[a] Repealed by Act No. XVI of 1874.

ance in the prevention of breaches of the peace and in the apprehension of public offenders, who are immediately to be delivered into the custody of the nearest officers of Police.

prevent breaches of peace, &c.

9. Any zamíndár, ṭaluqdár or holder of land exempt from revenue, who may be suspected of conniving at any robbery or other public offence, will be liable to be prosecuted before the criminal Courts of the country, and punished on conviction under the general laws and regulations of the country.

Liability of zamíndárs, &c., suspected of conniving at robbery, &c.

10. It shall be the duty of the Collectors of Katak and Mednípur to form a complete register of the lands assigned for the support of the sardár and other paiks, specifying the quit-rent payable to the zamíndárs, taluqdárs and other landholders (if, according to established usage, the lands have been hitherto subject to the payment of such quit-rent) and to transmit a copy of the register required to the Board of Revenue, to be deposited among the records of that Board.

Register of lands assigned for sardár and other paiks.

11. The foregoing rules regarding the sardár and other paiks, and the lands assigned for their support, are not to be considered applicable to certain dusádhs or village-watchmen, entertained by the zamíndárs, taluqdárs and other landholders, for the purpose of watching crops, guarding granaries, and other duties of that nature; which officers shall be left under the exclusive control of the zamíndárs, taluqdárs and other landholders, as heretofore.

Above rules not applicable to dusádhs or village-watchmen, entertained by landholders.

12.—[*Repealed by Act No. XVI of 1874.*]

13. All laws and regulations for the maintenance of the Police, and for the administration of justice in criminal cases, in the Province of Bengal, which have been or shall be enacted, and which shall not be inconsistent with or repugnant to the provisions contained in this Regulation, shall have full force and effect in the zila of Katak, and in the parganas of Paṭáspur, Kamardáchor and Bográí, included in the zila of Mednípur;

Extension of Regulations for Police and administration of criminal justice, to Katak.

provided, however, that no part of this Regulation shall be construed for the present to extend to the estates of certain hill or jangal rájás or zamíndárs, of which the following is a list:

Proviso.

Qil'a Nílgiri,	Qil'a Áthgaṛ,	Qil'a Tígiriyá,
Ditto Bánki,	Ditto Keonjhar,	Ditto Baṛambá,
Ditto Jurinu,	Ditto Khantápárá,	The territory of Mayurbhanj.
Ditto Narsinghpur,	Ditto Nayágaṛ,	
Ditto Angul,	Ditto Ranpur,	
Ditto Tálcher,	Ditto Hindol,	

REGULATION XI OF 1806.

Passed on the 3rd of July 1806.

A Regulation for facilitating the progress of detachments of troops through the Company's territories; for affording any requisite assistance to persons travelling through those territories; and for extending the rules contained in sections 68 and 72, Regulation XXII. 1795, in clauses fifth and sixth, section 14, Regulation VIII. 1805, and in section 31 of that Regulation, to the whole of the Company's Provinces subject to the immediate government of the Presidency of Fort William; for the guidance of the civil officers in applying for guards from the regular battalions; and for modifying the rule contained in clause first, section 12, Regulation I. 1804.[a]

Preamble.

1. WHEREAS it is expedient to enact into a Regulation for general information and observance, the rules which have been established by Government at different times (with such amendments as have been deemed necessary) for facilitating the progress of military detachments through the Company's Provinces, for ascertaining and defraying any necessary expense incurred for that purpose, and for providing compensation when any material damage may be sustained in the cultivation of the country from the march or encampment of troops:

And whereas it has also been judged proper to empower the local officers of Police to afford such reasonable assistance as may be required by travellers (whether European or Native) proceeding through their respective jurisdictions, in procuring the means of prosecuting their journeys:

And whereas it is further necessary to extend to the other Provinces under this Presidency (with modifications) the rules established in the Province of Benares by sections 68 and 72, Regulation XXII. 1795,[b] prohibiting, with certain exceptions, the use of the uniform of the Company's Native troops, the sending of sepoys or lascars into villages for the purpose of procuring provisions or of pressing coolies and boatmen, and the employing of badged peons

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874. Repealed, as to coolies, by Regulation III of 1820.

[b] Repealed by Act No. VIII of 1868.

or other public servants wearing badges ; as well as the rule established in the Ceded and Conquered Provinces, by clauses fifth and sixth, section 14, Regulation VIII. 1805,[a] for the trial and punishment of military guards in charge of prisoners who may escape ; and likewise the rule contained in section 31, Regulation VIII. 1805, for promulgating the Regulations in the country language :

And whereas it is likewise necessary that fixed and defined rules should be established for the guidance of the Magistrates and other civil officers in applying for detachments, guards or escorts for the public service from the regular battalions :

And whereas it has been judged advisable to modify the rule contained in clause first, section 12, Regulation I. 1804 :[b]

The following rules have been enacted, to be in force throughout the whole of the Provinces subject to the immediate government of the Presidency of Fort William (according as such rules may be applicable to the said Provinces respectively) from the date of their promulgation.

Notice to be given to Collectors and Magistrates, by officers commanding detachments.

2. Whenever a detachment of troops, or a single corps, shall be ordered to proceed, by land or by water, through any part of the Company's territories, the commanding officer of such detachment or corps is required to give the earliest practicable notice to the Collectors of the Revenue of the zilas through which the troops are to pass, of the probable time of their arrival within such districts respectively ; together with information of the probable period of their arrival at the particular places where supplies may be required, and a specification of the supplies which will be wanted.

The commanding officer will likewise notify to the Collectors the probable period of the arrival of the troops at the rivers or nálás intersecting their march, where boats or temporary bridges may be necessary for crossing the troops and the baggage attached to them. The commanding officer will at the same time communicate to the Magistrates of the zilas through which the troops are to pass the probable time of the arrival of the troops within their respective jurisdictions.

Procedure of Collector on notice.

3. *First.*—On receiving the notification mentioned in the foregoing section, the Collector shall immediately issue the necessary orders to the landholders, farmers, tahsíldárs or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nálás as may intersect their march, without any impediment or delay.

[a] Repealed by Act No. XIX of 1873.
[b] Repealed by Act No. XXIX of 1871.

The Collector shall at the same time depute a creditable Native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies and of facilitating the march of the troops.

It shall also be the duty of such Native officer to provide the troops with whatever bearers, boatmen, carts and bullocks may be indispensably necessary to enable the troops to prosecute their route.

Police to assist in providing bearers, boatmen, carts and bullocks.

Should he experience any difficulty in the performance of this duty, he is at liberty to apply for assistance to the nearest Police-officer, who is directed to afford his aid in providing the number of persons, and of carts and bullocks, required.[a]

Rates for supplies furnished to troops.

Second.—The supplies furnished under the foregoing clause (including earthen pots, firewood and every article of supply) shall be paid for by the persons receiving the same at the current bázár prices of the place at which they may be provided;

Commanding officers to inquire into, and redress, complaints against persons under their command.

and all officers commanding detachments of troops or single corps marching through any part of the Company's territories are enjoined to make immediate inquiry into any complaints which may be preferred to them by the persons furnishing such supplies or in their behalf, against any person or persons under their command, and to afford such redress to the complainants as the nature of the case may appear to require.

Certificate to be granted by commanding officer when troops are provided with boats, &c.

4. *First.*—Whenever a detachment of troops or a single corps shall be provided with boats, temporary bridges or other accommodations, by any landholder, farmer, tahsíldár or other person, conformably to the orders of the Collector of the zila, for the purpose of crossing the troops and their baggage over rivers or nálás, the commanding officer of such detachment or corps will grant a certificate to the person furnishing the same, specifying the number of boats and persons employed, the burthen of each boat, and how long employed on the public service.

In instances in which temporary bridges may be constructed for the above purpose, the certificate to be granted by the commanding officer is to specify, generally, the dimensions of the bridges and the materials of which they may be composed.

Certificate to be sent to Collector with account.

Second.—The certificate mentioned in the foregoing clause shall be immediately transmitted to the Collector of the zila by the person receiving it, accompanied by a detailed account of the expense incurred for the purposes therein specified.

Account to be sent by Collector to commanding officer.

The Collector shall without delay communicate the particulars of the account to the officer commanding the detachment or corps on whose account the

[a] See Reg. VI of 1825.

expense may have been incurred, who shall certify generally thereon whether the services charged for in it were performed, or shall state such exceptions as he may have to offer to any of the charges.

Endorsement by commanding officer.

Third.—When the account above-mentioned shall be returned to the Collector, he shall certify whether the sums and rates charged in it are in his opinion reasonable and conformable to the usual rates of labour and hire in the zila; and shall transmit the account, with the vouchers and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the Governor General in Council.

Account and vouchers to be sent by Collector with his report to Governor General.

After the account shall have undergone the examination and report prescribed for all military contingent charges, the Governor General in Council will pass such final order as may appear proper.

In the meantime the Collector is empowered in such cases to pay the amount of the charge, or such proportion of it as he may consider reasonable, to the landholder, farmer or other person entitled thereto; inserting the amount so disbursed by him at the foot of his treasury-account, in explanation of his treasury-balance, in the mode prescribed for similar cases.

Collector may pay charge if reasonable.

5. *First.*—Whenever a proprietor, farmer, tenant or manager of land through which any detachment or corps of the Company's troops may march, or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained; when the commanding officer is required to certify generally thereon whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.

Procedure for landholders, &c., sustaining injury, from march or encampment.

Certificate by commanding officer.

Second.—If the proprietor, farmer, tenant or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the Collector of the zila (either in person or by his vakíl) within ten days from the date of the certificate; but no claim of this description shall be received by the Collector after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay.

Certificate with statement of claim to be presented to Collector within ten days.

The Collector, on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded; and shall report his proceedings to the Board of Revenue, accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

It is, however, declared that no claim will be received, unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed; excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate.

In such cases, if the Collector shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation.

Procedure by Magistrates on receiving notice mentioned in section 2.

6. Immediately on receiving the notification mentioned in section 2, the Magistrates shall transmit orders to the several Police-dároghas, or other local officers of the Police through whose jurisdiction the troops are to pass, to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions; and to co-operate, as far as necessary, with the person deputed on the part of the Collector in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country.

Report to Commander-in-Chief by officers commanding troops on march.

7. Officers commanding detachments of troops or single corps on their march through any part of the Company's territories are already required, by the general orders issued under date the 1st of February, 1788, to report to the Commander-in-Chief in what manner the troops have been supplied in passing through the districts lying in their route.

In like manner the Collectors are directed to report to the Board of Revenue, and the Magistrates to report to the Nizámat Adálat, for the information of the Governor General in Council, any complaints which may be made to them of the misbehaviour of the troops, when such complaints shall appear to be well founded and of sufficient importance to require communication to Government.

Police empowered, in cases of necessity, to assist travellers in prosecuting their route.

8. Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops, or any other person (whether European or Native) not restricted by Government from passing through the country, may be proceeding within any part of the Company's Provinces, either on the public service or on his private affairs, and shall be in need of assistance during his route to enable him to prosecute his journey, he shall be at liberty to apply to the nearest local officer of Police, to aid him in providing any requisite bearers, boatmen, carts or bullocks, or any necessary supplies of provisions or other articles.

Assistance how afforded.

On receiving an application of the above nature, the Police-officer to whom it may be made shall furnish the aid required, or cause it to be furnished by

the proper person or persons; provided that a sufficient number of persons who have been accustomed to act as bearers or boatmen, or the requisite number of carts and bullocks, not exclusively appropriated to the purposes of agriculture and occasionally let for hire, can be procured within his jurisdiction.

Persons and carts and bullocks not to be employed in furnishing assistance.

But all Police-officers are strictly forbidden, under pain of dismission from office (under the rules prescribed by Regulation V. 1804[a]), on applications of the above nature, to compel any persons not accustomed to act as bearers or boatmen, to serve on such occasions, or to furnish a traveller, or cause him to be furnished, with bullocks or carts kept for private use and not for hire, or exclusively appropriated to the purposes of agriculture.

Persons employed to be at liberty to return from first Police-station.

Persons so employed, and the persons in charge of carts and bullocks so provided, shall be at liberty to return from the first Police-station in the next zila through which the corps or detachment is to march, unless a voluntary engagement to the contrary may be entered into by such persons.

Conditions of assistance to travellers.

The Police-officers are further enjoined to be careful that a proper compensation for the bearers, boatmen, carts or bullocks employed, and a just price for the provisions or other articles provided, be secured to the persons entitled thereto.

For this purpose, the Police-officers are authorized to adjust the rate of hire to be paid for the bearers, boatmen, carts or bullocks required, and the price of any articles provided; as well as to demand that the whole or a part, according to the circumstances of the case, be paid in advance.

Should any traveller refuse to comply with the adjustment or demand so made by a Police-officer, he will not be entitled to any assistance from the officers of Government under this Regulation.

REGULATION XVII OF 1806.

Passed on the 11th of September 1806.

A Regulation for extending to the Province of Benares the rates of interest on future loans, and provisions relative thereto, contained in Regulation XV. 1793; also for a general extension of the period fixed by Regulations I. 1798, and XXXIV. 1803, for the redemption of mortgages and conditional sales of land, under deeds of bai-bil-wafá, katkabála or other similar designation.[b]

Preamble.

1. The rules prescribed by Regulation I. 1798,[c] for preventing fraud and injustice in conditional sales of land, under deeds of bai-bil-wafá or other

[a] Repealed by Act No. XVI of 1874.

[b] Sections 7 and 8 declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

[c] See *supra*, p. 58.

deeds of the same nature, were declared to extend to Benares, as well as to the Provinces of Bengal, Bihár and Orissa; and under the terms of section 2 of that Regulation, might be considered, from the time of its publication, to have established the general limitation of interest at the legal rate of "twelve per cent. per annum."

As, however, the provisions relative to a limitation of interest, contained in Regulation XV. 1793,[a] and re-enacted for the Ceded and Conquered Provinces by Regulation XXXIV. 1803,[b] have never been expressly extended to Benares, and as it appears that the limitation of twelve per cent. per annum has not yet been considered in force within that Province, it is necessary that an express rule should be enacted for extending to Benares the same limitation of interest and provisions connected therewith, as are in force throughout the other Provinces under this Presidency.

It is further requisite, for the purpose of preventing improvident and injurious transfers of landed property at an inadequate price, by the forfeiture of mortgages accompanied with a condition of sale to the mortgagee if the amount advanced be not repaid within a stated period (which description of mortgage is common throughout the country, under deeds of bai-bil-wafá, katkabála and other similar designations), that an equitable provision should be made for allowing a redemption of the estate within a reasonable and limited period, on payment of the principal sum lent, with interest thereupon if the mortgagee shall not have been put in possession; the Governor General in Council has accordingly enacted the following rules, to be in force from the time of their promulgation, in the several Provinces therein specified respectively.

2.—[*Repealed by Act No. XXVIII of 1855.*]

Rates of interest to be decreed by Civil Courts.

3. Instead of the limitations of interest specified in sections 2 and 3, Regulation XV. 1793,[c] if the cause of action shall have arisen before the period stated in the preceding section, the Courts of Civil Judicature are to decree whatever rate of interest may have been voluntarily stipulated; or, if interest be payable in any case wherein a specific rate may not have been stipulated according to the law and usage of the Province, in conformity with the spirit of section 9, Regulation VII. 1795,[d] which directs, with respect to bills of exchange, receipts or notes of hand, that the custom of the country is to be abided by, and with respect to dealings and money-transactions amongst mahájans and sharáfs, that the established customs observed and enforced amongst them are to be adhered to by the Courts in their inquiries and decisions.[e]

a, c Repealed by Act No. VIII of 1868.
b Repealed by Act No. XV of 1874.
d Repealed by Act No. VI of 1871.
e See Act No. XXXII of 1839.

4.—[*Repealed by Act No. XXVIII of 1855.*]

5. The forfeiture of interest for stipulation of a higher rate than what is authorized, enacted by section 8, Regulation XV. 1793 [a]; and the forfeiture of principal and interest, in cases of attempts to elude the prescribed rules by deductions from the principal or other devices, provided against by section 9, Regulation XV. 1793,[b] shall not be considered applicable to any loans actually and *bonâ fide* contracted, or to any bonds or other instruments voluntarily given for the evidence and security of such loans, previously to the period stated in section 2 of this Regulation.

Forfeiture of principal and interest not applicable to certain cases.

6.—[*Repealed by Act No. XXVIII of 1855.*]

7. In addition to the provisions made in the Provinces of Bengal, Bihár, Orissa and Benares, by Regulation I. 1798,[c] and in the Ceded and Conquered Provinces by Regulation XXXIV. 1803,[d] for the redemption of mortgages and conditional sales of land, under deeds of bai-bil-wafá, katkabála or any similar designation, it is hereby provided, that when the mortgagee may have obtained possession of the land on execution of the mortgage-deed, or at any time before a final foreclosure of the mortgage, the payment or established tender of the sum lent under any such deed of mortgage and conditional sale, or of the balance due, if any part of the principal amount shall have been discharged, or when the mortgagee may not have been put in possession of the mortgaged property, the payment or established tender of the principal sum lent, with any interest due thereupon, shall entitle the mortgagor and owner of such property, or his legal representative, to the redemption of his property, before the mortgage is finally foreclosed in the manner provided for by the following section; that is to say, at any time within one year (Bengal, Faslí or Wiláiyatí, according to the era current where the mortgage may take place) from and after the application of the mortgagee to the Zila or City Court of Díwání Adálat for foreclosing the mortgage and rendering the sale conclusive, in conformity with section 8 of this Regulation.

What shall entitle mortgagor or his representative to redeem before final foreclosure, after application by mortgagee for foreclosure.

Provided that such payment or tender be clearly proved to have been made to the lender and mortgagee or his legal representative; or that the amount due be deposited, within the time above specified, in the Díwání Adálat of the zila or city in which the mortgaged property may be situated, as allowed for the security of the borrower and mortgagor, in such cases, by section 2, Regulation I. 1798,[e] and section 12, Regulation XXXIV. 1803,[f] the whole of the provisions contained in which sections, as applied therein to the stipulated period of redemption, are declared to be equally applicable to the extended period of one year, granted for an equitable right of redemption by this Regulation.

a, b Repealed by Act No. VIII of 1868. c, e See *supra*, p. 58.
d, f Repealed by Act No. XV of 1874.

Procedure for mortgagee or conditional vendee desirous to foreclose mortgage or render conditional sale absolute.

8. Whenever the receiver or holder of a deed of mortgage and conditional sale, such as is described in the preamble and preceding sections of this Regulation, may be desirous of foreclosing the mortgage and rendering the sale conclusive on the expiration of the stipulated period, or at any time subsequent before the sum lent is repaid, he shall (after demanding payment from the borrower or his representative) apply for that purpose by a written petition, to be presented by himself, or by one of the authorized vakíls of the Court, to the Judge of the zila or city in which the mortgaged land or other property may be situated.

The Judge, on receiving such written application, shall cause the mortgagor or his legal representative to be furnished, as soon as possible, with a copy of it; and shall at the same time notify to him, by a parwána under his seal and official signature, that if he shall not redeem the property mortgaged in the manner provided for by the foregoing section, within one year from the date of the notification, the mortgage will be finally foreclosed and the conditional sale will become conclusive.

REGULATION XIX OF 1810.

Passed on the 14th of December 1810.

A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindú temples, colleges and other purposes; for the maintenance and repair of bridges, saráís, kattras and other public buildings; and for the custody and disposal of nazúl property or escheats.[a]

Preamble.

1. WHEREAS considerable endowments have been granted in land by the preceding Governments of this country and by individuals, for the support of mosques, Hindú temples, colleges and for other pious and beneficial purposes; and whereas there are grounds to suppose that the produce of such lands is in many instances appropriated, contrary to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments; and whereas it is an important duty of every Government to provide that all such endowments be applied according to the real intent and will of the grantor; and whereas it is moreover essential to provide for the maintenance and repair of bridges, saráís, kattras and other buildings which have been erected either at the expense of Government or of individuals for the use and convenience of the public, and also to establish proper rules for the

[a] So much of this Regulation, as requires that the Board of Revenue and Board of Commissioners should provide with the sanction of Government for the due repair of public edifices, such as bridges, saráís and kattras, is repealed by section 16, Regulation XVII of 1816. So much as relates to endowments for the support of mosques, Hindú temples and other religious purposes, is repealed by Act No. XX of 1863, section 1. Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

custody and disposal of nazúl property or escheats, the following rules have been enacted, to be in force from the period of their promulgation throughout the Provinces immediately dependent on the Presidency of Fort William.

Superintendence of lands granted for support of mosques, &c.

2. The general superintendence of all lands granted for the support of mosques, Hindú temples, colleges and for other pious and beneficial purposes, and of all public buildings, such as bridges, saráis, kattras and other edifices, is hereby vested in the Board of Revenue and Board of Commissioners in the several districts subject to the control of those Boards respectively.

Appropriation of endowments.

3. It shall be the duty of the Board of Revenue and Board of Commissioners to take care that all endowments made for the maintenance of establishments of the above description be duly appropriated to the purpose for which they were destined by the Government or individual by whom such endowments were granted. In like manner, it shall be the duty of those Boards to provide, with the sanction of Government, for the due repair and maintenance of all public edifices which have been erected, either at the expense of the former or present Government or of individuals, and which either at present are or can conveniently be rendered conducive to the convenience of the community.

Disposal of ruined buildings.

4. In those cases, however, in which any of the buildings in question have fallen to decay, and cannot, from that or other causes, be conveniently repaired, or are not calculated if repaired to afford any material accommodation to the public, the Boards shall recommend that they be sold on the public account, or otherwise disposed of, as may appear most expedient.

Lands or public edifices not to be appropriated by individuals for private uses.

5. Under the foregoing rules, it will of course be incumbent on the Board of Revenue and Board of Commissioners to prevent any lands which have been granted for the support of establishments of the above description from being converted to the private use of individuals, or appropriated in any other mode contrary to the intent and will of the donor; and likewise to prevent all public edifices from being usurped by individuals and falling into the possession and exclusive use of private persons.

Estimates of necessary repairs to be submitted to Government.

6. Whenever the Board of Revenue and Board of Commissioners may be of opinion that any of the above-mentioned edifices require repair, they shall obtain the necessary estimates of the expense required for the execution of the work, and forward them to Government for its approval.

Superintendence of nazúl property.

7. The general superintendence of all nazúl property or escheats is likewise hereby vested in the Board of Revenue and Board of Commissioners respectively, who will inform themselves fully through the channel hereafter mentioned of all property of that description, and report to Government whether it should in their opinion be sold on the public account, or in what other mode it should be disposed of.

Appointment of local agents.

8. To enable the Board of Revenue and Board of Commissioners the better to carry into effect the duties intrusted to them by this Regulation, local agents

shall be appointed in each zila subject to the authority, control and orders of those Boards respectively.

Collector to be *ex officio* agent with others.

9. The Collector of the zila shall be *ex officio* one of those agents, with whom the Governor General in Council will unite such other public officers, whether in the civil, military or medical branch of the service, as may from time to time be judged expedient.[a]

Agents to ascertain and report particulars of endowments, &c.:

10. Under the provisions of the present Regulation, it will of course be the duty of the agents to obtain full information from the public records, and by personal inquiries, respecting all endowments, establishments and buildings of the nature of those above described, and of all nazúl property or escheats, and to report to the Board to whose authority those agents are respectively subject, any instances in which they may have reason to believe that the lands or buildings are improperly appropriated: being in all cases careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals.

Also names, &c., of present trustees or managers:

11. The said agents will further ascertain and report the names, together with other particulars, of the present trustees, managers or superintendents of the several institutions, foundations or establishments above described, whether under the designation of mutáwali or any other, and by whom and under what authority appointed or elected, and whether in conformity to the special provisions of the original endowment and appropriation by the founder, or under any general rule or maxim applicable to such institutions and foundations.

And all vacancies or casualties with full information as to pretensions of claimants.

12. The local agents will also report to the superior Boards all vacancies and casualties which may occur, with full information of all circumstances, to enable the Boards to judge of the pretensions of the person or persons claiming the trust; particularly whether the succession have been heretofore by inheritance in the line of descent, or whether the successor have been in former instances elected, and by whom, or whether he have been nominated by the founder, or his heir or representative, or by any other individual patron of the foundation, or by any officer or representative of Government, or directly by the Government itself.

To recommend fit persons in cases where nomination vests in Government.

13. In those cases in which the nomination has usually rested with the present or former Government, or with a public officer, or of right appertains to Government, in consequence of no private person being competent and entitled to make sufficient provision for the succession to the trust and management, it will be the further duty of the local agents to propose, for the approval and confirmation of the superior Board, a fit person or persons for the charge of trustee or manager and superintendent, duly attending to the qualifications of the person selected, and to any special provisions of the

[a] Modified by Act No. XXXVIII of 1837 which enacted that no person should by reason of his not being in the Civil, Military or Medical branch of the service be incapable of being appointed a local Agent under Regulation XIX of 1810.

original endowment and foundation, and to the general rules or the known usages of the country applicable to such cases.

14. On the receipt of the report and information required by the preceding clause, the Board of Revenue or Board of Commissioners will either appoint the person or persons nominated for their approval, or will make such other provision for the trust, superintendence and management, as may be right and fit with reference to the nature and conditions of the endowment, having previously called for any requisite further information from the local agents. Board to appoint such persons, or make other provision for trust.

15. Nothing contained in this Regulation shall be construed to preclude any individual who may conceive that he has just grounds of complaint on account of any orders which may be passed by any of the above-mentioned authorities, with respect to the appropriation of any lands or buildings of the nature of those above described, from suing, in the mode and form prescribed by the Regulations, where Government or public officers are parties; or under the general provisions of the Regulations if the suit be brought against a competitor or other private person, for the recovery thereof in the regular course of law, or for compensation in damages for any loss or injury supposed to have been unduly sustained by him. Saving of private rights.

16. It is to be clearly understood that the object of the present Regulation is solely to provide for the due appropriation of lands granted for public purposes agreeably to the intent of the grantor, and not to resume any part of the produce of them for the benefit of Government. Object of Regulation.

In like manner it is fully intended that all buildings erected by the former or present Government or by individuals for the convenience of the public, should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay, and cannot from that or any other cause be conveniently repaired, or which, under existing circumstances, can no longer contribute to the accommodation of the community.

REGULATION XX OF 1810.

Passed on the 29th of December 1810.

A Regulation for subjecting persons attached to the military establishments to martial-law in certain cases, and for the better government of the retainers and dependents of the army receiving public pay on fixed establishments, and of persons seeking a livelihood by supplying the troops in garrison, cantonment and station military bázárs, or attached to bázárs of corps.[a]

1. BY the respective Articles of War for the government of His Majesty's Preamble.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

and the Honourable Company's troops, all retainers to a camp, and all persons whatever serving with the forces in the field, though not enlisted soldiers, are to be subject to orders according to the rules and discipline of war.

From the great number of Native retainers and followers attached to military establishments in India, and the importance of a prompt and orderly discharge of their duties to the welfare of the troops, it is necessary that the principle of this Article of War should be extended to other cases than that of actual service in the field, to which it is at present confined, and that it should be applied, under certain restrictions, to the maintenance of a proper discipline among the retainers of the army at all times.

By Regulation III. 1809, [a] the support of the Police and the maintenance of the peace within the limits of cantonments and military bázárs are vested in the officers commanding the troops quartered at such places; but the powers of commanding officers under that Regulation are restrained[b] to such measures as may be calculated for the prevention of crimes and the apprehension of persons committing them, and they are prohibited from interfering in cases of petty breaches of the peace and other offences of inferior magnitude, unless where the parties are taken in the fact; the cognizance of these offences, as well as those of greater magnitude, being expressly reserved to the Magistrate by that Regulation.

As, however, it will further tend to the maintenance of good order, to subject the retainers and dependents of the army to punishment for petty offences by a military tribunal, it has been deemed expedient to transfer the cognizance of such cases, under the restrictions and in the mode hereafter mentioned, to courts-martial to be assembled for that purpose by commanding officers; and it has further been deemed expedient, for the ease and security of dealers, and for encouraging their resort to military bázárs, to vest in military Courts to be assembled by commanding officers a power of enforcing the payment of small debts, and of deciding on the spot in petty causes of a civil nature arising between officers, soldiers or retainers of the army, and persons carrying on trade in military bázárs, or between such retainers or traders; the Governor General in Council has therefore been pleased to enact the following rules.

Persons serving with army and receiving public pay, subject to trial by courts-martial for breach of duty, &c.

2. All persons serving with any part of the army and receiving public pay drawn by any officer in charge of a public department appertaining to the army, whether as lascars, magazine-men, khalásís attached to magazines or any other department or establishment, Native doctors, writers, bihishtís, pakhálís, syces, grass-cutters, maháwats, sarwáns or other subordinate servants

[a] Repealed by Act No. XXIX of 1871.

[b] *Sic* in the edition of 1832.

attached to public cattle, bíldárs, artificers or in any other capacity, shall (provided they are borne upon the fixed establishment of the department in which they are employed, and not otherwise) be subject to be tried by a court-martial for all breaches of their respective duties, and for all disorders and neglects to the prejudice of good order and of the local regulations established by the commanding officer or other competent authority in the cantonment, garrison, station or other places where the troops to which they are attached may be serving.

Limitation of punishment by courts-martial.

3. Provided that it shall not be competent for such court-martial to sentence any persons [a] of the above description to any other or heavier punishment than may now be lawfully inflicted on enlisted soldiers, under the second article of the twenty-fourth section of His Majesty's Articles of War, unless where the forces are serving in the field; for which case provision is already made by the existing Articles of War, from which nothing in this Regulation is to be understood to derogate.

Menial servants of officers, liable to trial by courts-martial.

4. Menial servants of officers within the precincts of any cantonment, garrison or military station or military bázár, although they shall not be in the receipt of public pay, shall at all times be subject to all such Regulations as shall be made by the commanding officer or other competent authority, for the maintenance of good order in such cantonment, garrison, station or bázár, and shall be liable to be tried by a Native court-martial for any breach thereof.

5.—[*Repealed by Act No. XVI of 1874.*]

Plans where to be deposited.

6. The plans [b] shall be prepared in quadruplicate, and signed by the commanding officer and the Magistrate of the district; one copy shall be deposited at the head-quarters of the station, another at the kachahrí of the Magistrate, and the other two shall be transmitted to the commander-in-chief, by whom one copy will be forwarded to Government.

Names of residents within cantonments, &c., to be registered in office of Brigade Major or other officer.

7. The names of all persons having houses, shops or other buildings or fixed places within the limits of the garrison, cantonment or station as described in the plans, in which they carry on trade, or otherwise seek a livelihood by supplying or serving the troops, shall be entered in a register to be kept in the office of the Brigade Major or other station-staff-officer, and to be open to inspection at all reasonable hours.

The name of each person shall be entered both in English and in the language and character commonly used in the district in which the station is situated, and the occupation of the person written opposite to it, in like manner, with the place of his residence and the date of the registration.

[a] *Sic* in the edition of 1832.

[b] *i. e.*, the plans of the limits of the cantonments and garrisons, including the military bázárs attached thereto, which were provided for in the repealed section 5.

Rules as to registered persons.

8. No person shall be registered as attached to the station-bázár without his free consent, and any person so registered shall be entitled at any time to demand his discharge from the registry.

Persons registered shall be entitled to the privileges of registry so long only as they continue to carry on trade or other employment relating to the supply or service of the troops, at some house, shop or fixed place within the limits above-mentioned, and shall be subject during such time to all regulations made by the commanding officer or other competent authority, for the maintenance of good order and fair-dealing in the station-bázár, and shall be liable to be tried by a Native court-martial for any breach thereof.

Persons attached to bázárs of corps to be registered in book kept at head-quarters. Rules as to such persons.

9. The names of all persons attached to bázárs of corps shall, in like manner, be registered in a book, which shall be kept at the head-quarters of the corps, and shall be open to inspection at all reasonable hours; the entries shall be made in the same manner, in all respects, as those in the registers of station-bázárs.

10. No person shall be registered as attached to the bázár of a corps without his free consent, and any person so registered shall be entitled at any time to require his discharge; except when the corps is on actual service, or there is an immediate prospect of its being ordered to march, in which cases it shall be in the discretion of the commanding officer to withhold such discharge so long only as the immediate exigency of the public service requires.

Persons entitled to privileges of registry.

11. No person registered as attached to the bázár of a corps shall be entitled to any of the privileges of such registry, except those who ordinarily carry on the trade or employment in respect of which they are registered, within the place allotted or commonly used for the bázár of the corps when it is stationary.

Registered persons liable to local regulations.

12. All persons registered as attached to bázárs of corps shall, while they continue so attached, be subject to such regulations as shall be made by the commanding officer or other competent authority, for the maintenance of good order and fair dealing in the bázár, and for the prompt and efficient execution of such services as belong to their respective occupations.

13 to 18.—[*Repealed by Act No. XXII of 1864.*]

Execution of process of arrest, civil or criminal, within military stations.

19. In all cases in which it may be necessary to execute any process of arrest, criminal or civil, within the limits of a garrison, cantonment, military station or military bázár (the process of the Supreme Court only excepted), the officers intrusted with the execution of such process of arrest shall in the first instance carry the same to the commanding officer, or if he shall happen to be absent, to the senior officer actually present in the garrison, cantonment or station;

and the commanding officer, or such senior officer, upon such process being produced to him, shall back the same with his signature, and shall forth-

with use his utmost endeavours to cause the person or persons named in such process to be discovered, and if within the limits of the garrison, cantonment, station or bázár, to be arrested and delivered according to the exigency of the process, to the civil officer charged with the execution thereof;

but nothing herein contained is to be construed to prevent the service by the civil officer, in the usual way, of summonses, subpœnas or other process of mere citation without arrest.[a]

Rule not to extend to service of process short of arrest.

20. The provisions of this Regulation respecting the trial of petty offences committed within the limits of garrisons, cantonments, military stations or military station bázárs, and the provisions of this Regulation respecting the execution of process of arrest before judgment against registered persons attached to station bázárs, are to be considered as applicable only to those garrisons, cantonments and stations, the limits whereof shall be laid down in plans approved and confirmed by the Governor General in Council, in the manner described in section 5 of this Regulation, and they shall be in force in such garrisons, cantonments and military stations respectively, from the time that the plans so approved and confirmed shall have been deposited at the head-quarters and in the kachahrí of the Magistrates, in the manner prescribed in section 6.

Description of military stations to which rules are confined.

With regard to those garrisons, cantonments or stations to which it may not be found practicable to assign local limits for the purposes of this Regulation, special provisions will be made hereafter, according to the circumstances of each case.

21.—[*Repealed by Act No. XXII of 1864.*]

22 to 25.—[*Repealed by Act No. XI of 1841.*]

26. Nothing in this Regulation is to be construed to give any authority to commanding officers to dispossess proprietors of land or houses which may be situated within the limits of military bázárs, although such persons shall refuse to be registered as attached to the bázár, or shall have lost, or forfeited, or resigned their privilege of registry.

Commanding officers not to dispossess proprietors of land or houses within military bázárs.

In all cases in which the ground allotted to those bázárs, or any part of it, is the property of Government, and the occupation of individuals has been declared by Government merely permissive, the commanding officer is empowered to make such general regulations as he may think fit (subject to the approbation of the Governor General in Council) respecting the tenure or occupation of houses, shops or other fixed places situated upon such ground as belongs to Government; which regulations shall in all cases be reduced to writing, and shall, after receiving the approbation of the Governor General in

Rules as to lands the property of Government within those bázárs.

[a] So much of this section as relates to civil process, repealed by Act No. X of 1877.

Council, be published in station-orders, with a translation in the language commonly used in the district; and the same shall not be of force until fourteen days after they shall have been so published within the limits of the station-bázár.

REGULATION V OF 1812.

Passed on the 1st of May 1812.

A Regulation for amending some of the rules at present in force for the collection of the Land-revenue.[a]

1.—[*Repealed by Act No. XVI of 1874.*]

Proprietors competent to grant leases for any term.

2. Proprietors of lands are declared competent to grant leases for any period which they may deem most convenient to themselves and tenants, and most conducive to the improvement of their estates.

Proprietors competent to grant leases and receive engagements in any convenient form.

3. The proprietors of land shall henceforward be considered competent to grant leases to their dependent taluqdárs, under-farmers and raiyats, and to receive correspondent engagements for the payment of rent from each of those classes, or any other classes of tenants, according to such form as the contracting parties may deem most convenient and most conducive to their respective interests:

Prohibition of arbitrary cesses.

Provided, however, that nothing herein contained shall be construed to sanction or legalize the imposition of arbitrary or indefinite cesses, whether under the denomination of abwáb, mahtút or any other denomination.

All stipulations or reservations of that nature shall be adjudged by the courts of judicature to be null and void: but the Courts shall, notwithstanding, maintain and give effect to the definite clauses of the engagements contracted between the parties, or, in other words, enforce payment of such sums as may have been specifically agreed upon between them.

No attacher of lands on part of Government or purchaser at public sales, entitled to annul existing leases within year.

4. Neither any person deputed to attach lands on the part of Government, nor purchasers at the public sales, shall be deemed entitled to annul existing leases within the year in which the attachment or sale may have taken place, on the ground that such leases were evidently collusive, without a decision to that effect in a court of judicature.

5 to 23.—[*Repealed by Act No. X of 1859.*]

Sales of entire estates not liable to

24. It is hereby declared, that sales made of entire estates for the recovery of arrears of public assessment are not liable to be annulled by the

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874. Repealed in part by Regulation VIII of 1831.

courts of judicature, on the ground that one or more of the sharers may not have obtained possession of his or their interest in the property. be annulled on ground of some sharers not having obtained possession.

The consideration of and decision on the expediency of selling the entire estate, or of disposing in the first instance of any particular part of it, is hereby declared to reside in the Board of Revenue, subject to the control exercised by the Government, in its executive capacity, in matters connected with the public revenue.

25. No means existing by which any certain or accurate computation can be formed *à priori* of the real value of any estate, or portion of estate, which may be exposed to sale for the recovery of arrears of public assessment, or of the adequacy of the price which may be offered for such estate, or portion of estate; it is hereby declared, that sales made at public auction for that purpose are not liable to be annulled by the Courts of Judicature, on the ground that the proceeds of the sales have materially exceeded the amount of the arrears due from the proprietor of the lands to Government. Nor on ground of proceeds having materially exceeded arrears due.

The Board of Revenue will be guided in cases of that nature by their own discretion; subject, of course, to any instructions with which they may at any time be furnished by the Governor General in Council.

26. Inconvenience to the public and injury to private rights having been experienced in certain cases, from disputes subsisting among the proprietors of joint undivided estates, it is hereby enacted, that whenever sufficient cause shall be shown by the Revenue Authorities, or by any of the individuals holding an interest in such estates, for the interposition of the courts of judicature, it shall be competent to the zila and city Judges to appoint a person, duly qualified and under proper security, to manage the estate; that is, to collect the rents and discharge the public revenue, and provide for the cultivation and future improvement of the estate.[a] Appointment by Judges of managers of joint undivided estates.

27. In like manner, should the Authorities aforesaid, or any individual holding an interest in the estate, be at any subsequent time dissatisfied with the conduct of the manager, it shall be competent for them or him to represent the circumstances of the case to the zila or city Judge, and to move the Court for the removal of the said manager.[b] Court may be moved for removal of managers.

a, b See Regulation V of 1827.

REGULATION XI OF 1812.

Passed on the 18th of July 1812.

A Regulation to empower the Governor General in Council to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.

Preamble.

1. WHEREAS considerable bodies of persons, being Natives of Arakan and ordinarily denominated Muggs, have from time to time emigrated from that country and established themselves in that part of the district of Chittagong which lies contiguous to the Arakan frontier;

and whereas numbers of those persons, or of their descendants, abusing the protection which had been afforded to them in the British territories, have excited disturbances and even levied war in the country of Arakan against the Government of Ava, of which State Arakan is now a dependency, and have conducted themselves in a manner manifestly tending to disturb the relations of amity which subsist between the British Government and the Government of Ava;

and whereas it is, in consequence, necessary that the Governor General in Council should possess legal powers to remove the said bodies of emigrants and their descendants from the frontier of the territory of Arakan, or any other bodies of aliens, or their descendants, from the vicinity of the country from which they may have emigrated, and likewise to detain in confinement any of those persons, or any other individuals being Natives of foreign countries, or their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated;

and whereas it is necessary to make provision for the trial of persons committing, or aiding in the commission of, the said offences, the following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

Power to order removal of emigrants to parts of country deemed convenient.

2. Whenever the Governor General in Council, upon due investigation, shall be satisfied that the emigrants from Arakan, or emigrants from any other State, who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them, by attempts to excite disturbances in the State from which they or their ancestors may have emigrated, it shall be competent to the Governor General in Council to order the removal of those persons to such other part or parts of the country as may be judged most convenient for their future residence.

In like manner, it shall be competent to the Governor General in Council to order such removal, whenever he may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated, is likely to cause any serious misunderstanding between that State and the British Government.

Emigrants allowed to dispose of property.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper;

provided, however, that if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the Governor General in Council to order such property to be sold by public auction under the superintendence of the Collector of the district.

In that case, the nett proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged.

Power to order leaders or other emigrants to be apprehended and kept under restraint.

4. In cases in which the Governor General in Council may, on due inquiry and mature deliberation, be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the Governor General in Council to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time, as may be deemed by the Governor General in Council necessary for the public good.

Punishment for emigrants or their descendants exciting disturbances in countries from which they emigrated.

5. *First.*—Any persons of the above description, or their descendants, who, while living under the protection of the British Government, shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence, and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years.

Punishment for persons aiding or assisting in attempts to excite such disturbances.

Second.—Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence, and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years;

Proviso.

provided, however, that if the Judge by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the proceedings held on the trial to the Nizámat Adálat, who will recommend to the Governor General in Council such alleviation of the prescribed punishment as they may judge proper;

provided, moreover, that no sentence or order which may be passed on the trial of any persons under the provisions of the present Regulation shall be competent, or shall be construed, to preclude the Governor General in Council from the exercise of the power vested in the Government by section 4 of the said Regulation.

REGULATION XVIII OF 1812.

Passed on the 19th of September 1812.

A Regulation for explaining section 2, Regulation V. 1812, and rescinding sections 3 and 4, Regulation XLIV. 1793, and sections 3 and 4, Regulation L. 1795, and enacting other rules in lieu thereof.

Preamble.

1. WHEREAS it has been deemed expedient to remove doubts which have arisen on the construction of section 2, Regulation V. 1812,[a] and to rescind sections 3 and 4 of Regulation XLIV. 1793,[b] and sections 3 and 5 of Regulation L. 1795,[c] the following rules have been enacted, to be in force from the promulgation of them in the Provinces of Bengal, Bihár, Orissa (exclusive of

[a] See *supra*, p.110.
[b, c] Repealed by Act No. XXIX of 1871.

the district of Katak and the parganas formerly dependent on that district, but now annexed to the zila of Mednípur) and Benares.

2. Doubts having arisen on the construction of section 2, Regulation V. 1812,[a] it is hereby explained, that the true intent of the said section was to declare proprietors of land competent to grant leases for any period, even to perpetuity, and at any rent which they might deem conducive to their interests. Explanation of section 2, Regulation V. 1812, as to granting leases in perpetuity or otherwise.

Provided, however, that nothing contained in the former or present Regulation shall be construed to empower persons holding a restricted interest in estates, whether for life or for other limited period, or subject to control or restriction in the use or disposal of the property, to grant leases extending beyond the term of their own interest in the property, or exceeding their power or authority over it.

3. *First.*—[*Repealed by Act No. XVI of 1874.*]

Second.—When a division of a joint estate shall be made on the application of the proprietors, or pursuant to the decree of a Court of Justice, the fixed public revenue assessed upon the whole estate shall be apportioned on the several shares agreeably to the principles prescribed in section 10, Regulation I. 1793,[b] and section 7, Regulation XXVII. 1795,[c] without regard to any engagements that may subsist between the proprietors and their dependent taluqdárs (excepting the dependent taluqdárs described in section 7, Regulation XLIV. 1793 [d]), under-farmers or raiyats. Rule for apportioning assessment on shares of estates when divided.

But all leases made in conformity to sections 2 and 3, Regulation V. 1812, and section 2 of this Regulation, shall remain in full force, notwithstanding the division of a joint estate among the sharers, or the sale of the whole or a portion of any estate in satisfaction of a decree of Court, or the devolving of the same by inheritance, or the private transfer thereof by sale, gift or otherwise.

REGULATION XXIX OF 1814.

Passed on the 3rd of December 1814.

A Regulation for the settlement of certain maháls in the district of Bírbhúm, usually denominated the Ghátwálí maháls.[e]

1. WHEREAS the lands held by the class of persons denominated Ghátwáls, in the district of Bírbhúm, form a peculiar tenure to which the provisions of the existing Regulations are not expressly applicable; Preamble.

and whereas every ground exists to believe that, according to the former usages and constitution of the country, this class of persons are entitled to hold

[a] See *supra*, p. 110. [b] See *supra*, p. 1. [c] See N. W. Provinces Code, p. 7.
[d] Repealed by Act No. XXIX of 1871. [e] See Act No. V of 1859.

their lands, generation after generation, in perpetuity, subject nevertheless to the payment of a fixed and established rent to the zamíndár of Bírbhúm, and to the performance of certain duties for the maintenance of the public peace and support of the Police;

and whereas the rents payable by those tenants have been recently adjusted, after a full and minute inquiry made by the proper officers in the Revenue Department;

and whereas it is essential to give stability to the arrangements now established among the Ghátwáls, the following rules have been adopted, to be in force from the period of their promulgation in the district of Bírbhúm.

Ghátwáls in Bírbhúm, and their descendants in perpetuity, to be maintained in possession of lands, and not liable to enhancement of rent.

2. A settlement having lately been made on the part of the Government with the Ghátwáls in the district of Bírbhúm, it is hereby declared that they and their descendants in perpetuity shall be maintained in possession of the lands, so long as they shall respectively pay the revenue at present assessed upon them, and that they shall not be liable to any enhancement of rent so long as they shall punctually discharge the same and fulfil the other obligations of their tenure.

Ghátwálí lands to form part of zamíndárí of Bírbhúm. Rents how paid.

3. The ghátwálí lands shall be considered, as at present, to form a part of the zamíndárí of Bírbhúm; but the rents of Ghátwáls shall be paid direct to the Assistant Collector stationed at Súri, or to such other public officer as the Board of Revenue, with the sanction of the Governor General in Council, may direct to receive the rents.

Amount payable to zamíndár of Bírbhúm.

4. The difference between the amount of the revenue assessed on the Ghátwáls and the fixed assessment of revenue in this portion of the zamíndárí of Bírbhúm payable to Government, shall be paid to the zamíndár of Bírbhúm, and his heirs and successors, in perpetuity.

Disposal of tenure of Ghátwáls failing to discharge rents.

5. Should any of the Ghátwáls at any time fail to discharge their stipulated rents, it shall be competent for the Governor General in Council

to cause the ghátwálí tenure of such defaulter to be sold by public sale in satisfaction of the arrears due from him, in like manner, and under the same rules, as lands held immediately of Government, or to make over the tenure of such defaulter to any person whom the Governor General in Council may approve on the condition of making good the arrear due; or

to transfer it by grants assessed with the same revenue, or with an increased or reduced assessment, as to the Government may appear meet; or

to dispose of it in such other form and manner as shall be judged by the Governor General in Council proper.

Should any increase of revenue be obtained from the operation of any arrangements of the nature above described, such increase shall be paid in conformity to the tenor of the preceding article to the zamíndár of Bírbhúm, his heirs and successors.

REGULATION V OF 1816.

Passed on the 16th of February 1816.

A Regulation for establishing the office of Kánúngo in the district of Katak, the pargana of Paṭáspur, and the several parganas dependent on it.[a]

Preamble.

1. WHEREAS the establishment of the office of kánúngo in the district of Katak, the pargana of Paṭáspur and its dependencies, may be expected to be of great public benefit in removing the obstacles which have hitherto impeded the revision of the settlement of the district and parganas abovementioned, and in otherwise facilitating the collection of the public revenue and the administration of justice; the following rules have been enacted.

Appointment of kánúngos.

2. One or two persons shall be appointed to fill the office of kánúngo in every pargana of the district of Katak, in the pargana of Paṭáspur and in the several parganas dependent on it, unless the small extent of a pargana shall render it advisable to place more than one pargana under the same kánúngo.

Nomination and removal.

3. These officers shall be nominated by the Collectors of Katak and Hijlí, within their respective local jurisdictions, for the approval of the Board of Revenue, and shall not be removable from office, except for sufficient cause proved to the satisfaction of that authority.

Office of kánúngo not hereditary.

4. The office of kánúngo is declared not to be hereditary; but in all parganas in which persons may be found who formerly discharged the duties of kánúngo, the officers to be appointed under this Regulation shall, as far as practicable, be selected from among them; and in supplying future vacancies, the Collectors shall make it a rule, in all practicable cases, to select from the families of the kánúngos such persons as from character, education and acquirements shall be best qualified to perform the duty.

Salaries of kánúngos.

5. The kánúngos appointed under this Regulation shall receive such salaries as the Governor General in Council may think proper to fix for their support.

The salaries so granted shall be considered to preclude all claims to further pecuniary allowances, under the denomination of nánkár, or any other denomination.

Revenue of lands held by kánúngos liable to resumption.

It is also hereby declared, that the revenue of all lands, the grant of which may be found to have been obtained by any person in virtue of his discharging the duties of kánúngos, will be liable to resumption by Government; and that this rule shall be considered applicable both to the persons who may be appointed to the office of kánúngo under the present Regulation, and to those who may not be employed in the public service.

[a] The portions repealed by Act No. XVI of 1874 have been omitted.

Nothing, however, contained in this provision shall be construed to preclude the Governor General in Council from continuing to either of those classes of persons the whole or a part of the lands held by them respectively free of assessment, in those cases in which the circumstances of the parties may appear to require that indulgence.

Exception.

6. The above rule is not to preclude claims to rent-free lands, or pensions held by the kánúngos under grants made to the individuals for reasons unconnected with the office of kánúngo.

Duties of kánúngos.

7. The kánúngos are to execute the duties herein specified.

First.—To keep a counterpart jama-wásil-báki, or account of the collections made by the tahsíldárs, or by sazáwals, from lands held khás or under attachment.

Second.—To keep an account of all lands held under rent-free tenures, whether the grants be hereditary or otherwise, and to report to the Collector all escheats of such lands to Government.

Third.—To keep a list of the patwárís in each village, and a register of pattás granted by the landholders to their under-tenants.

Fourth.—To keep a register of all transfers of estates by sale (public or private), mortgage, lease or otherwise, and to attest such transfers at the request of the parties, without fee or gratuity, with their official signatures.

Fifth.—To compile information regarding local boundaries of parganas and estates; the number and names of villages, articles of produce, rates of rent, rules and customs established in each pargana; and to furnish, at the requisition of the Courts of Justice and of the Collectors, all local information within their cognizance.

Sixth.—To assist at all admeasurements of land, whether undertaken by the officers of Government in conformity to the Regulations, or by the landholders or raiyats, and to record the same.

Seventh.—To prepare and keep the information and accounts directed in this or any future Regulation, in such manner and form as may be from time to time prescribed by the Board of Revenue.

Eighth.—To report to the Collector the death of a málguzár and the name of his heirs, and to keep a register of all successions to lands.

Kánúngos not to hold farms or become sureties.

8. Persons who may be selected to fill the office of kánúngo are hereby prohibited from holding farms, or from becoming sureties for farmers or zamíndárs, within the local limits of their official duties.

Transfer of records to successors.

9. On the death, resignation or removal of a kánúngo, the records of the office are to be made over to his successor, and the Magistrate of the zila is enjoined, on the application of the Collector, to interpose his authority, in all cases in which it may be necessary, to enforce the surrender of such records.

10. The refusal or manifest evasion of any person in possession of the records mentioned in the preceding section to deliver them up on the requisition of the Magistrate, is hereby declared to subject the party so offending, on proof thereof, to the penalties prescribed by the Regulations for resistance to the process of the Magistrate. Punishment of refusal to give them up.

11. Nothing contained in this Regulation shall be construed to preclude the Governor General in Council from exercising the right of decreasing the number of kánúngos; of abolishing the office in any pargana where from local circumstances the duty may be performed by less than two persons or by the kánúngos in a neighbouring pargana; nor from exercising the right to increase the number of kánúngos in any pargana where, from circumstances, more than two may be found necessary. Right of Government to vary number of kánúngos.

12. The Collectors of Katak and Hijlí are enjoined to report to Government, through the usual channel, all instances wherein they may deem it expedient to increase or diminish the number of kánúngos in a pargana, with their reasons at large for such opinion. Collectors to report when variations are necessary.

REGULATION IX OF 1816.

Passed on the 26th of April 1816.

A Regulation for the appointment of a Commissioner of Revenue within that portion of the Districts of the Twenty-four Parganas, Nadiyá, Jessore and Bákarganj, commonly denominated the Sundarbans.[a]

1. WHEREAS it has appeared advisable to appoint an officer for the performance of certain duties connected with the public resources in the tract of country ordinarily called the Sundarbans; the following rules have been enacted. Preamble.

2. An officer shall be appointed under the appellation of Commissioner in the Sundarbans.

The Commissioner in the Sundarbans shall be vested, within such local limits as may be from time to time established by the Governor General in Council, with all the duties, powers and authority which have been or may be exercised by the Collectors of land-revenue (including the charge of the ábkárí mahál) under the rules and Regulations which may have been or may be enacted; and shall be subject to the control and superintendence of the Board of Revenue, in the same manner as the Collectors of the several zilas situated within the limits of their authority. Appointment of Commissioner of Sundarbans.

[a] The portion repealed by Act No. XVI of 1874 has been omitted.

REGULATION XI OF 1816.

Passed on the 10th of May 1816.

A Regulation for receiving, trying and deciding claims to the right of inheritance or succession, in certain tributary estates in Zila Katak.

Preamble.

1. WHEREAS it is necessary that provision should be made for receiving, trying and deciding claims to the right of inheritance or succession in certain tributary estates in zila Katak, which were excepted by section 11, Regulation XIV. 1805,[a] from the operation of the general rules for the administration of civil justice, established in the Provinces of Bengal, Bihár and Orissa;

and whereas the nature of the tenures by which those estates are held, the character of the inhabitants, and other local circumstances, render it expedient that the estates in question should not be subject to partition, but should descend entire and undivided to the persons respectively having the most substantial claim according to local and family usage; the following rules have been enacted, to be in force from the date of the promulgation of this Regulation in zila Katak.

Trial of claims to succession to certain tributary estates in Katak.

2. All claims to the right of inheritance or succession to any of the undermentioned tributary estates are to be heard, tried and determined, in the first instance, by the Superintendent of the Tributary Mahals in zila Katak.

Qil'a Nílgiri,	Qil'a Khantápárá,
Ditto Bánki,	Ditto Nayágaṛ,
Ditto Jurmu [Jurinu?] *alias* Duspullah.	Ditto Ranpur,
Ditto Narsinghpur,	Ditto Hindol,
Ditto Angul,	Ditto Tígiriyá,
Ditto Tálcher,	Ditto Baṛambá,
Ditto Áthgaṛ,	Ditto Dhenkánál,
Ditto Keonjhar,	The territory of Mayarbhanj.

Laws and usages to guide decision of such claims.

3. The Superintendent, in deciding cases of the above nature, shall be generally guided by the established laws and usages of the respective tributary estates.

Bar to partition.

Provided, however, that the estates above enumerated shall in no case be considered liable to be divided according to the Hindú law, but shall descend entire to the person having the most substantial claim according to local and family usage.

4.—[*Repealed by Act No. XVI of 1874.*]

[a] Repealed by Act No. XII of 1876.

5. The established pleaders of the zila Court shall attend the Superintendent's Court, to be held in the Court-house of the zila Adálat; and they shall receive the same fees as are authorized on the pleading of causes in the zila Courts; subject, of course, to the prescribed rules in the cases of paupers. Pleaders of civil Court to attend Superintendent's Court, and entitled to fees.

6.—[*Repealed by Act No. XVI of 1874.*]

7. All processes issued in suits instituted under this Regulation shall bear the official seal and signature of the Superintendent; and shall be executed by the officers on his establishment, in like manner as all similar processes issued by the Judge of the zila Court are executed; Issue of process by Superintendent.

and any disobedience and resistance to his process shall be liable to a fine to Government to be fixed by the Superintendent, subject to the confirmation of the Court of Sadr Díwání Adálat; or, if the offender be a landholder or sadr farmer, and the case appear to call for it, by a confiscation of his estate or farm, commutable to a fine by the Sadr Díwání Adálat, or Governor General in Council. Penalty for resistance of process.

8. In the trial of all suits instituted under this Regulation, the Superintendent shall be guided by the general rules prescribed for the trial of civil causes before the Judges of the zila Courts, subject to the special provisions contained in this Regulation, or in points not specially provided for, to any qualification of the general rules which may be found expedient, and may be sanctioned by the Court of Sadr Díwání Adálat. Rules for trial of suits.

9. It shall not be requisite to use stamped paper for the plaints, pleadings, decrees or any papers relative to suits instituted under this Regulation; nor shall any darkhást on stamped paper be required for the admission of exhibits, or the issue of summonses to witnesses, in such suits, when tried in the first instance, or in appeal. Stamped paper not required.

10.—[*Repealed by Act No. XVI of 1874.*]

11. In all suits decided and orders passed by the Superintendent under this Regulation, an appeal from his decisions and orders shall lie to the Court of Sadr Díwání Adálat, provided that the petition of appeal be preferred within three months after the decree or order appealed from shall have been passed. Appeal.

12. The petition of appeal shall be presented to the Superintendent, and shall contain a full and explicit statement of the appellant's objections to the decree or order from which he is desirous to appeal. Rules for admitting petition of appeal.

The appellant, if not admitted as a pauper, shall at the same time tender good security for the payment of any costs which may be adjudged on the determination of the appeal by the Sadr Díwání Adálat, or if unable to give such security, shall make oath or subscribe a solemn declaration to his inability, or adduce two creditable persons to prove the same.

Procedure of Superintendent on receipt of petition of appeal.

13. On receipt of the petition of appeal, with the prescribed security, or proof of inability required in failure thereof, the Superintendent shall cause a copy to be made of the decree or order from which the appeal may be required, and within fifteen days shall certify and transmit the same, with the petition of appeal, to the Court of Sadr Díwání Adálat.

Procedure on admission of petition.

14. *First.*—When the Court of Sadr Díwání Adálat may admit the appeal, they will cause a precept to be issued, under the seal of the Court and the signature of the Register, addressed to the Superintendent, requiring him, within such period as may be limited by the precept, to furnish a complete record of all papers received and proceedings held in the case; and also to call upon the respondent or respondents for his or their answer, or to appear in person or by vakíl, within a certain time, before the Sadr Díwání Adálat, and deliver his or their answer to that Court.

Superintendent to comply with precepts of Sadr Court.

Second.—The Superintendent, on receipt of the precept, shall comply with the exigency thereof, as required; or in the event of his not being able to carry the same into complete execution within the prescribed period, shall certify the same to the Court of Sadr Díwání Adálat, with notice of the period within which a further return will be made.

Parties may plead their own causes in appeal, &c.

15. It shall be optional with appellants and respondents, in appeals to the Sadr Díwání Adálat under this Regulation, to attend in person or by vakíl for the prosecution or defence of their appeals before that Court; or to deliver their proceedings to the Superintendent of the Tributary Maháls; who, in the latter case, shall forward them, as soon as received, to the Sadr Díwání Adálat, and communicate to the parties any orders which may be issued by that Court.

Sadr Court may refer cause back to Superintendent or direct further evidence.

16. In cases wherein it may appear to the Court of Sadr Díwání Adálat that the cause in appeal has not been sufficiently investigated, and consequently that further evidence is required for the just determination of it, that Court is empowered to refer the cause back for further trial and judgment to the Superintendent, or to direct that further evidence be taken and transmitted to the Court.

Section 3 applied to decisions of Sadr Court.

17. The provisions contained in section 3 by which the decisions passed by the Superintendent are to be governed, shall be considered equally applicable to the decisions of the Sadr Díwání Adálat in all appeals under this Regulation.

Also sections 5, 8 and 9.

18. The principles of the several provisions contained in sections 5, 8 and 9 of this Regulation, shall also be considered applicable to all appeals from decisions or orders of the Superintendent of the Tributary Maháls in zila Katak, which may come before the Court of Sadr Díwání Adálat.

Execution of decree to be

19. *First.*—In cases of appeal to the Sadr Díwání Adálat from any decree

or order of the Superintendent involving a transfer of property, or any change in the actual possession of property, the decree or order appealed from shall not be carried into execution during the appeal to that Court, provided the appellant shall give good and sufficient security for the performance of the final decision which may be passed upon the appeal; and in no instance shall the Superintendent cause to be carried into execution any such decree or order passed by him, until the period allowed for the appeal may have elapsed.

postponed, if appellant give sufficient security.

Second.—In the event of the appellant's not giving security for staying the execution of the decree appealed from, and of its being consequently put into execution whilst an appeal is pending, good and sufficient security shall be taken from the respondent for the performance of the final decision which may be passed upon the appeal.

If decree executed pending appeal, respondent to give security.

Third.—In case neither party shall be able to give the requisite security, the estate in dispute shall be attached by order of the Superintendent, until the security required shall be received, or until the final determination be passed by the Sadr Díwání Adálat upon the case.

If neither party gives security, estate to be attached.

Fourth.—No decree or order, whether of the Superintendent of the Tributary Maháls, or of the Sadr Díwání Adálat, involving a transfer of the property or an actual change in the possession of any of the estates enumerated in section 2 of this Regulation, shall be carried into execution without a previous communication being made by the Sadr Díwání Adálat to Government; in order that sufficient time may be afforded for the adoption of any precautionary measures which may be eventually judged requisite to support and enforce the execution of the decree or order without hazard to the public tranquillity.

Communication to Government before execution of any decree.

REGULATION XII OF 1817.

Passed on the 12th of August 1817.

A Regulation for securing the better administration of the office of patwárí in the Ceded and Conquered Provinces, the Provinces of Bihár and Benares, the district of Katak, the pargana of Paṭáspur and its dependencies.

1. THE existing Regulations regarding patwáris have been found to be in many respects defective, and great difficulties and delays have consequently been experienced in the division of estates, the adjustment of the revenue to be assessed on their respective shares, the investigation of summary and other suits for rents, the decision of disputes relating to the limits of estates and

Preamble.

villages, and the execution of decrees of the courts of judicature, in regard to the possession and property of land:

the reform of the office appears therefore to be an object of the highest importance; but as for the full attainment of that object the establishment of pargana kánúngos is also requisite, it is deemed advisable to confine the operation of the rules to be enacted for the above purpose to those parts of the country in which kánúngos are already established, or in which arrangements are in progress for the revival and organization of that office.

The following rules have therefore been enacted, to be in force throughout the Ceded and Conquered Provinces, the Provinces of Bihár and Benares, the district of Katak, the pargana of Paṭáspur, and the several parganas dependent on it.

2.—[*Repealed by Act No. XVI of 1874.*]

Every village to have separate patwárí.

3. Every village paying or liable to pay the public revenue shall have a separate patwárí, except in cases where the Board of Revenue, or other authority exercising the power of that Board, shall, in consideration of former usage or other sufficient cause, authorize one patwárí to do the duty of two or more villages, or direct two or more patwáris to be established in a single village.

4, 5, 6.—[*Repealed by Act No. XVI of 1874.*]

Vacancies how filled up.

7. Whenever a vacancy may occur in the office of patwárí, such vacancy shall be filled on the nomination of the zamíndár or other landholder or farmer, engaging with Government for the public revenue, who is hereby enjoined to report such nomination to the Collector of the district within one month after the vacancy has taken place;

provided, however, that in such nomination the zamíndár or other landholder or farmer shall be generally guided by the custom which may heretofore have prevailed in the village in respect to the succession of patwáris, and shall not deviate therefrom without previously obtaining the sanction of the Collector; and it shall be the duty of the Collectors carefully to see that this rule is observed, and particularly that the just rights of the inferior pattídárs, or sharers in joint undivided estates, and of dependent taluqdárs, or other under-tenants of the lands, as connected with the appointment of patwáris, are duly maintained.

Procedure of Collector on receiving nomination of patwárí.

8. On receiving the report of the nomination of a patwárí, as directed to be made in the foregoing section, the Collector is to insert the name of the party in the register of patwáris for his district, unless he shall see good and sufficient ground to object to the person so nominated as disqualified for the office, in which case he is immediately to submit his objections to the Board of Revenue, and the Board will decide whether the zamíndár or farmer shall

be called upon to nominate another person, or pass such other order on the question as may appear just and right.

Rules regarding patwáris in joint and undivided estates.

9. The proprietors of joint and undivided estates engaging jointly for the public revenue shall be considered jointly and severally bound to nominate a patwárí in the mode prescribed in this Regulation, or to show sufficient cause for their failing to do so.

Rules as to patwáris in khás estates.

10. In estates held khás, and in estates under the superintendence of the Court of Wards, the patwárí shall be appointed by the Collector.

Penalty in cases of refusal or omission to comply with rules.

11. Should any zamíndár or other proprietor or farmer refuse or omit to nominate a patwárí in the cases provided for in this Regulation within the time prescribed, and shall fail to show good cause for such neglect or failure, it shall be competent to the Collector, with the approval of the Board of Revenue, to levy a daily fine upon him, until a patwárí is nominated, or, with such approval, himself to nominate a qualified person for the office.

Procedure of zamíndárs wishing to remove patwárí.

12. Whenever a zamíndár or farmer engaging with Government for the public revenue, may wish to remove a patwárí from office, he is to state his reasons for so doing to the Collector of the district, who, if they appear good and sufficient, will authorize the removal of the patwárí, but not otherwise.

Penalties for removing patwárí without authority.

13. Any zamíndár or other landholder or farmer of land, removing a patwárí from office without the authority of the Collector obtained in the mode prescribed in the preceding section, shall be punished by a fine not exceeding fifty rupees for the first offence, and one hundred rupees for the second offence;

and if it should appear, on investigation by the Collector, that the removal was unjust and without sufficient cause, the said zamíndár or other landholder or farmer of land, shall be further subject to a daily fine, with the approbation of the Board of Revenue, but not otherwise, until the patwárí be restored.

Patwáris removable on representation of undertenants.

14. Whenever the inferior pattídárs or sharers, or the raiyats or undertenants, of a village may petition the Collector for the removal of a patwárí, the Collector shall direct such removal, and shall call upon the zamíndár or other landholder or farmer of land engaging with Government for the public revenue to appoint another patwárí, provided the reasons adduced for praying such removal appear to the Collector good and sufficient, but not otherwise.

Procedure of Collector desiring to remove patwárí.

15. Whenever a Collector shall see ground to desire the removal of a patwárí for neglect of duty or other sufficient cause, he is to state his reasons to the Board of Revenue, as the case may be, who will authorize the removal or not, as may seem proper.

Duties of patwáris.

16. The duties of the patwárí shall be—

First.—To keep such registers and accounts relating to the village or villages to which he is appointed, in such manner and form as has heretofore been the custom, or in such other mode as may be hereafter prescribed by the Board of Revenue, together with such further registers and accounts as may be directed by those authorities respectively.

Second.—To prepare and deliver to the kánúngo of the pargana, at the expiration of every six months, a complete copy of the aforesaid accounts, showing distinctly the produce of the kharíf and rabbí harvests.

Third.—To perform all other duties and services which it has been customary for him to execute.

Transmitting and recording patwáris' accounts.

17. The Board of Revenue will determine on the mode in which the accounts rendered by the patwárí to the kánúngo shall be brought forward by the latter, and recorded in the office of the Collectors.

Payment of patwáris, and adjustment of their allowances in certain cases.

18. The patwárí is to be paid hereafter in the same mode as he is now paid, whether in money, or in grain, or in land, or in any other legal manner whatsoever; but it shall be the duty of the several Collectors to complete an account of the mode in which such payment is made in the different parganas or other local divisions of their districts, and to submit the result of their researches to the Board of Revenue or other authority exercising the powers of that Board; and it shall be competent to the Board of Revenue or other authority aforesaid, with the sanction of the Governor General in Council, to increase or reduce the amount of remuneration paid to the patwáris, and to alter or modify the mode of its payment, in any case in which sufficient cause for the adoption of such a measure shall exist.

Remuneration of patwáris in villages where none are now appointed.

19. Where no patwárí has hitherto been appointed, the amount of the remuneration to the patwárí who may be appointed under this Regulation, and the mode of its payment, shall be regulated by the Collector, with reference to the usage of the adjoining villages.

Procedure on refusal of payment of established remuneration to patwárí.

20. If the remuneration which a patwárí has heretofore regularly received, or which may be assigned to him by the Collector or other competent revenue authority, be denied to him by the parties who have hitherto paid it, or who may have been directed to pay it by the said authority, he is at liberty to complain against the person so withholding his dues to the Collector, who will proceed to an immediate investigation of the facts, and decide according to the usage of the village; and the Collector is hereby authorized to compel payment of the amount due to the patwárí, and to fine the offending party according to his situation and circumstances in life; provided always, that the fine in no instance exceed fifty rupees.

Local usage of pargana to be reported by pargana kánúngo.

21. In all cases in which the decision of the Collector is to be governed by usage, it shall be made an invariable rule to insert in the original proceedings on the case the attested report of the kánúngos of the pargana, as to the custom or usage in reference.

Power to summon patwárí and to examine him on oath to the truth of his accounts.

22. Collectors of land-revenue are hereby empowered to summon the patwárí of any village or villages within their respective districts, whenever there may be occasion for his attendance on any matter connected with the duties of his office, and to require him to produce all accounts relating to the lands, produce, rents, collections and charges of the village or villages, the accounts of which may be kept by him, and to examine him on oath to the truth of such accounts, and on any other matters relating to such accounts, or regarding the lands, produce, rents, collections and charges of the village or villages to which the said patwárí may belong.

When a Collector shall require the attendance of a patwárí for the purpose above stated, he is to serve such patwárí with a written notice under his official seal and signature, stating the purpose for which his attendance is required, and the papers (if any) which he is to bring with him.

Power to compel patwárís to produce their accounts.

23. If any patwárí shall neglect or omit to produce his original accounts on the requisition of a Collector, or to give his evidence respecting them, the Collector is hereby authorized and empowered to cause the said patwárí to be apprehended, and to order him to be confined in the Díwání jail of the district until he produce his accounts, or show sufficient cause for not producing them.

In such cases the patwárí shall be sent by the Collector with a rúbakárí to the Judge of the city or zila, stating the purport of the order passed against him; and the Judge shall, on those grounds, commit the patwárí to jail, and detain him until he produce the accounts, or until the Collector applies for his release.

Patwárís to produce accounts when required by Courts of Justice.

24. In like manner patwárís shall produce all accounts relating to the lands, produce, collections and charges of the village or villages, the accounts of which may be kept by them respectively, and furnish every information and explanation that may be required regarding them, whenever they may be required by any Court of Justice, in any suit that may be depending before the Court;

and if any patwárí shall neglect or omit to attend with his accounts when required, for the adjustment of any matter or dispute depending in Court, the Courts are authorized to order such patwárí to be committed to close custody until he produce the accounts, or show sufficient cause for not having produced them.

Power to require attendance of patwáris on officers deputed to examine village-accounts and to grant commission to swear patwáris.

25. In any case in which a Collector of land-revenue shall have occasion to depute an officer to examine the accounts of any village or villages, he is authorized to require the patwáris to attend such officer, and the Collector is further empowered to grant to such officer a commission to swear the several patwáris whose accounts are to be inspected, inserting in the commission the name of each patwári to be sworn;

and if any such patwári shall neglect or refuse to attend such officer with his accounts, or to give his evidence respecting them, when duly required to do so by a written notice from the Collector, the Collector is hereby authorized and empowered to proceed against such patwári in the same mode as if he had refused or neglected to attend or to give his evidence before the Collector himself.

26.—[*Repealed by Act No. XII of 1876.*]

Punishment for patwáris falsifying or mutilating village-accounts.

27. In like manner, any patwári who shall alter, fabricate, falsify or mutilate the accounts of the village to which he belongs, or shall furnish to the kánúngo or Collector false, fabricated or mutilated copies of those accounts, shall be held and considered guilty of forgery, and shall be liable, on conviction, to the penalties which are or may be prescribed for that offence;

and any person who shall cause or procure any such forgery shall be liable to the same penalties as those convicted of having actually committed the offence.

28.—[*Repealed by Act No. XII of 1876.*]

Power to require attendance of Native agents of proprietors whose estates are to be sold, transferred or divided, and to cause them to be examined on oath touching accounts.

29. In like manner, whenever an estate, or the portion of an estate, may be directed to be disposed of at public sale, or may be transferred by the private act of the proprietor or proprietors, or when an estate may be divided pursuant to a decree of a court of judicature, or at the request of one or more of the proprietors, or when an estate or portion of an estate may be under attachment, the Collector shall be authorized to require the attendance of all descriptions of Native agents employed by the proprietors or farmers of such estates or farms, in the management of their lands, or keeping the accounts relating to them, and to examine or to cause them to be examined on oath, touching such accounts, in the same manner as he is authorized by sections 22 and 25 of this Regulation to require the attendance and to take or cause to be taken the examination of patwáris;

and if such agents shall refuse or neglect to attend the Collector or his officer, when their attendance may be duly required, or to give their evidence the Collector is authorized and empowered to proceed against them in the same manner as is prescribed in the case of patwáris refusing or neglecting to attend.

Section 27 applied to Native agents.

30. Provided further that the rules contained in sections 26 and 27 shall be held and considered applicable to all such Native agents employed by proprietors or farmers of land, in the management of their estates or farms, or in keeping the accounts relating to them.[a]

Procedure in cases not provided for when attendance of proprietors or farmers with accounts is required.

31. Whenever a Collector of land-revenue, or other officer vested with the powers of a Collector, may in any case connected with his public duty, but not provided for in this or any other Regulation in force, have occasion to require the attendance of a zamíndár or other proprietor or farmer of lands, or of the gumáshta or other officer or agent of such proprietor or farmer, with the accounts of such lands, he shall report the circumstance to the Board of Revenue, and the Boards are[b] hereby empowered to grant authority to the Collector or other officer aforesaid, to require the attendance of the proprietor or farmer, or of the gumáshta or other officer or agent, with all accounts relating to the lands in their possession or management.

Notice to person required to attend.

32. A written notice shall in such cases be issued by the Collector or other officer to the party whose attendance is required, stating the purpose for which he is summoned, and the papers (if any) which he is to bring with him;

Penalty for omission or refusal.

and if the proprietor or farmer shall omit or refuse to attend, or cause his officer or agent to attend, by the time prescribed in the Collector's requisition, with the accounts and information required, the Board of Revenue are authorized and empowered to impose upon him such daily fine, to be payable daily until he complies with the Collector's requisition, as they may think adequate to his situation and circumstances in life; reporting, however, the amount for the information of the Governor General in Council.

The fine, when confirmed by Government, is to be levied by the same process as is prescribed for the recovery of arrears of revenue.[c]

Provision in cases where appointment of village-patwáris is inexpedient.

33. In cases in which, from local or other sufficient causes, it may appear impracticable or inexpedient to cause the appointment in any estate or farm of patwáris, in the mode prescribed in this Regulation, as, for instance, in certain estates consisting chiefly of hills and forests in the south-western frontier, and in very small mahálls, the accounts of which are kept by the proprietors themselves, it shall be competent to the Board of Revenue to suspend its operation in such estates or farms;

provided, however, that in all such cases the person by whom the village-accounts are kept, whether proprietor or farmer, or gumáshta or other officer, shall furnish the kánúngo of the pargana with such accounts and statements

[a] Repealed, so far as it relates to section 26, by Act No. XII of 1876.
[b] *Sic.* Read "Board is."
[c] Modified by Act No. XX of 1848.

as the Collector, with the approval of the Board, may direct, and shall be subject to the provisions contained in sections 22, 23, 24, 25 and 27 of this Regulation; and the proprietors or others by whom they may be employed shall likewise be subject to the provisions contained in sections 26 and 27.[a]

In what cases Courts prohibited from taking cognizance of complaints of patwáris.

34. No court of judicature shall take cognizance of the complaint of a patwárí against the landholder, or the tenants of a village, for refusing to remunerate his labours, nor shall any court of judicature take cognizance of any complaint against a Collector, for, or on account of, any decision passed by him in virtue of the powers with which he is vested by this Regulation.

Collectors to furnish periodical report of judgments passed under section 20.

35. It shall be the duty of the Collectors to furnish the Board of Revenue with a periodical report of all judgments passed by them under section 20 of this Regulation; and such judgments shall be liable to reversal or alteration by the Board *or Commissioner*, at any time within six months after passing the same, but not later.

Recovery and appropriation of fines, &c.

36. All sums adjudged by the Collector in favour of a patwárí, under section 20, and all fines directed to be levied by this Regulation, shall be recoverable by the same processes as arrears of the public revenue; and all such fines, when recovered, shall be carried to the account of Government.

REGULATION XX OF 1817.

Passed on the 7th of October 1817.

A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for the guidance of dároghas and other subordinate officers of Police; for modifying the existing rules concerning the resistance or evasion of criminal process, and for requiring further aid to the Police in certain cases, from proprietors and farmers of land and their local managers, as well as from the mandals and other heads of villages.[b]

1 to 8.—[*Repealed by Act No. XVI of 1874.*]

9.—[*Repealed by Act No. XVII of 1862.*]

10, 11.—[*Repealed by Act No. XVI of 1874.*]

12 to 20.—[*Repealed by Act No. XVII of 1862.*]

[a] Repealed, so far as it relates to section 26, by Act No. XII of 1876.

[b] Section 29 and section 30, clauses 1, 2 and 5, declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

Village-watchmen.

21. *First.*—It shall be the duty of the dároghas of Police, under the guidance and instruction of the Magistrate, to prepare and keep up at their thánás a complete register of the village-watchmen employed within the limits of the authority of the said dároghas respectively, drawn out after the form No. 6 of the Appendix;

Dároghas to keep complete list of village-watchmen.

and upon the death or removal of any of the watchmen, the landholders and other persons to whom the right of nomination to such vacancies shall belong, shall send the names of the persons whom they may appoint to the dárogha of the jurisdiction, that they may be registered by him as above directed.

Zamíndárs or others to nominate successor on occurrence of vacancy.

Second.—The village-watchmen are declared subject to the orders of the Police-dároghas.

Village-watchmen subject to Police-dároghas.

Third.—Village-watchmen who may reside within one kos of the thánástation to which they may be subject, shall report daily to the thánádaily all occurrences connected with the Police, which may have happened in their respective villages during the preceding twenty-four hours; village-watchmen residing from one to three kos distant from the thánádaily shall furnish similar reports twice every week; and all other watchmen, whose residence may be situated at a greater distance, shall report once in every week or fortnight, as they may be specially instructed by the Police-dárogha so to do.

Delivery of reports of watchmen residing at a certain distance from the thánás.

Fourth.—All occurrences reported by the village-watchmen shall be recorded by the muharrirs in the thánádiaries; but it shall not be considered necessary to enter in such diaries the reports of watchmen who have no communication to make further than that the peace of their divisions has been undisturbed since their last report.

Occurrences reported by village-watch, to be entered in thánádiaries.

Fifth.—The village-watchmen shall apprehend and send to the dárogha or other Police-officer presiding at a thánádaily, any person who may be taken in the act of committing murder, robbery, housebreaking or theft; also proclaimed offenders and persons against whom a hue and cry shall have been raised of their having been concerned in a recent criminal offence.

Proclaimed offenders, &c., to be sent to thánádaily by village-watchmen.

It shall further be the special duty of the village-watchmen to convey to the thánádaily immediate intelligence of any robbers who may have concealed themselves in their respective villages, or in the adjacent country; and also of any vagrants, or other persons who may be lurking about the country without any ostensible means of subsistence, and who cannot give a satisfactory account of themselves.

It shall likewise be the business of the village-watchmen to convey early intimation to the thánà of all murders, robberies, burglaries, thefts, violent affrays and other heinous offences perpetrated in the villages or places in which they may be stationed.

Receiving reports of village-watchmen.

Sixth.—The report of the village-watchmen to the Police-officers of the regular establishments shall be made verbally; and they shall not, unless they appear as prosecutors, be sworn to their depositions at the thánás, or be detained at the thánás, or sent into the Magistrate's Court, unless on account of misconduct, or under the special orders of the Magistrate.

Supervision to be exercised by dárogha.

Seventh.—Dároghas of Police shall invariably ascertain and report, when making inquiries on the occasion of any robbery, burglary or theft, the conduct of the village-watchmen; and whether they were present at their posts when the offence was perpetrated; if not, the cause of their absence, and whether there may be reason to believe that they were themselves concerned in, or connived at, the commission of the crime.

In the event of any neglect or suspicion of criminality attaching to a village-watchman, the dárogha shall either send the individual to the Magistrate, with a separate report of the grounds of the charge exhibited against him, and evidence to establish the same, or shall forward a report in the first instance, and wait the instructions of the Magistrate, as the nature of the alleged offence may dictate.

Penalty for negligence or misconduct.

In the event of any gross neglect or misconduct in the discharge of his duty as a Police-officer being established against a village-watchman, he shall be liable to dismission from his station by order of the Magistrate, independently of any punishment to which he may be subject for specific acts of criminality, under the laws and Regulations in force.

Watchmen not to be employed on dároghas' private concerns.

Eighth.—The dároghas or their Police-officers are prohibited, under penalty of dismission from office, from employing the village-watchmen on their private concerns, or on any duties unconnected with the Police.

In places where regular Police-establishments are stationed, watching by whom to be performed.

Ninth.—In those towns and villages where the dároghas of the mufassal Police-jurisdiction, or the officers of outposts, may be stationed, the duties of watching and patrolling shall be performed conjointly by the regular Police-officers and the village-watchmen; and private watchmen, entertained by individuals for guarding their habitations, shops or warehouses, shall also afford their assistance, and be considered subject, in the performance of this duty, to the orders of the Police-dároghas of the station.

Village-watchmen to resist robbers and to require

Tenth.—On the occurrence of a gang or highway-robbery, or any robbery by open violence, murder, burglary or theft, attended with wounding, or any other heinous offence, attended with a violent breach of the peace, the village-

watchmen shall, to the utmost of their ability, resist and endeavour to apprehend the offenders, and shall require the headmen of the village to collect the inhabitants and to oppose and seize the criminals, or to pursue them if they have fled;

zamíndárs and headmen to assist in pursuit and apprehension of criminals.

and it shall be incumbent on the inhabitants of the villages through which, or near to which, the pursuit may lie, to afford, on the requisition of the village-watchmen or other Police-officer, every practicable assistance towards the apprehension of the robbers or other offenders, and recovery of any property stolen or plundered by them, continuing the pursuit from village to village.[a]

22 to 26.—[*Repealed by Act No. XVII of 1862.*]

27.—[*Repealed by Act No. X of 1859.*]

28.—[*Repealed by Act No. XII of 1876.*]

Execution of Criminal Process in the Commercial, Salt and Opium Departments; and Duties of Dároghas relating to those Departments.

29. *First.*—In all bailable cases, where it may be necessary, under the provisions of this Regulation, to summon or apprehend any officer or person employed in the Opium Department, the dároghas of Police shall transmit the summons or warrant, under a sealed cover, addressed to the Opium Agent, or the head Native officer of the árang, koṭhí or chaukí, who will either give, or direct sufficient security to be given, for the due attendance of the party, certifying on the back of the process the manner in which it has been served, and by whom the security has been given, or causing the defendant to accompany the officer bearing the dárogha's process to the thána.

Security for appearance of persons employed under Opium Department accused of bailable offences.

Second.—In cases of bailable nature, in which a person under engagements, and employed in the Opium Department, may be summoned under the provisions of the preceding clause, during the manufacturing season, the dárogha of Police shall, with the view of preventing unnecessary interruption to the manufacturer, require the party summoned to appear in person or by vakíl, either during or after the manufacturing season, as the circumstances of the case may dictate, subject to the future orders of the Magistrate, to whom the dárogha shall in each instance report the reasons which may have influenced him in the exercise of the discretion here vested in him.

In such cases the accused not to be forced to appear till manufacturing season.

Third.—Summonses to any officers or persons employed in the Opium Department, to attend as witnesses, shall be served in the manner directed by

Rules for serving summonses on

[a] Repealed by Bengal Act No. VI of 1870 as to all villages to which that Act may apply, and in which a chaukídár shall have been appointed. See Bengal Act No. I of 1871, section 1.

witnesses employed in the Company's árangs, and form of their recognizance.

the preceding clauses of this section; but the Opium Agent, or the head Native officer of the árang, koṭhí or chaukí, shall, instead of requiring the person summoned to give security, or proceed to the thána, take from the witness a recognizance agreeable to the form No. 13 of the Appendix, and shall deliver the same to the officer serving the process.

Warrants for offences not bailable to be served upon persons so employed, as upon others,

Fourth.—If a charge shall be preferred to a Police-dárogha against any officer or person employed in the Opium Department, for an offence that is not bailable, and there shall appear to the dárogha of Police sufficient ground under the provisions of this Regulation for apprehending the person so charged, the warrant for his apprehension shall require him to attend immediately in person, and shall be executed in the same manner as upon persons not so employed.

the dárogha giving notice to Agent.

But the dárogha, after securing the offender, is to give notice of his apprehension to the Opium Agent, or to the head officer of the nearest árang, koṭhí or chaukí, as the case may be.

Fifth to Eighth.—[*Repealed by Act No. VIII of 1875.*]

Police-officers to suppress illicit cultivation of opium.

Ninth.—All officers of Police are strictly enjoined, under pain of dismission from office, to assist in suppressing the illicit cultivation, manufacture, sale, purchase, importation, transportation or possession of opium.

Tenth and Eleventh.—[*Repealed by Act No. XVI of 1874.*]

Penalty for allowing illicit cultivation.

Twelfth.—Any Police-dárogha who shall knowingly permit the cultivation of the poppy within his jurisdiction, or who shall be convicted of conniving in any respect at the illicit cultivation of the poppy, shall, besides being liable to dismission from office for neglect of duty, be further subject, on conviction before the Magistrate of the zila, to the payment of the fine stated in section 31, Regulation XIII. 1816,[a] for whatever quantity of land shall have been so illegally cultivated within his jurisdiction with his knowledge or connivance; and the fine, if not duly paid, shall be commutable to imprisonment for a period not exceeding six months.

[a] Repealed by Act No. XIII of 1857. Section 31 is as follows:—Any person who shall cultivate the poppy in opposition to the prohibition contained in section 3 of this Regulation shall be liable to prosecution before the Collector of the land-revenue or other officer in charge of the Ábkárí mahál of the district, and on conviction shall be subject to a penalty, to be calculated at the rate of twenty sikká rupees per bíghá for whatever quantity of land shall have been so illegally cultivated; and if the poppy-plants shall be growing on the said land, and the opium shall not have been extracted therefrom, the plants shall be destroyed.

If the opium shall have been extracted and shall be seized, the same shall be confiscated.

If the opium shall have been extracted and shall not be seized, the cultivator of the said land shall be subject to a penalty of thirty-two sikká rupees per bíghá, instead of twenty sikká rupees per bíghá, as above directed.

In addition to the above penalties, the offender shall be liable to imprisonment for a period not exceeding six months, and to further imprisonment not exceeding six months more, in the event of the fine not being duly discharged.

Miscellaneous Rules regarding Forts, Armed Men, Military Stores, Dress of Sepoys or Lascars, and Badges, Public Roads and Insane Persons.

Dároghas to report circumstances appearing dangerous to public peace.

30. *First.*—The dároghas of Police shall uniformly report to the Magistrates whenever any individuals within their respective jurisdictions may entertain in their service any extraordinary number of armed men, or may commence building or repairing any fort or garhí, or collecting together any quantity of arms, ammunition or military stores.

To apprehend unauthorized persons dressed in uniform of Company's sepoys.

Second.—The dároghas of Police are required to apprehend and send to the Magistrate all persons not actually in the Honourable Company's military service, or belonging to persons specially exempted by Government from the operation of the rule contained in the section above-mentioned, who may be found dressed in the uniform of the Company's sepoys or lascars, or in a dress so nearly approaching to that uniform as to enable the persons wearing it to impose themselves on the country people for sepoys and lascars.

Third.—[*Repealed by Act No. XVI of 1874.*]

Fourth.—[*Repealed by Act No. XVIII of 1835.*]

Dároghas to report encroachments on public roads.

Fifth.—The dároghas of Police shall prevent all encroachments on the public roads, and shall, at the same time, report the circumstances of each case for the information of the Magistrate, and record an abstract of the same in his thánadárí proceedings.

FORM No. 6.

REGISTER of Village Watchmen, and Alphabetical List of Villages.

Names of Villages.	Distance and Direction from the Thana-station.	Names of the Proprietors or Managers, and situated in what Pargana.	Names of the Chaukídars or Watchmen attached to each Village	Estimated Number of Houses in each Village	REMARKS.

FORM No. 13.

RECOGNIZANCE to be taken from a Witness.

WHEREAS I , inhabitant of , have been named as a witness in the case of : I hereby engage to appear before the Magistrate of the zila [*or* city] of , on or before the , for the purpose of giving evidence; in default whereof I hereby further bind myself to pay such fine to Government as the Magistrate may judge proper to impose upon me, as well as any expense that may be incurred in consequence of my non-attendance, for compelling my appearance: in this I will not fail. Dated [*according to the current era*].

REGULATION III OF 1818.

Passed on the 7th of April 1818.

A Regulation for the confinement of State Prisoners.[a]

Preamble. 1. WHEREAS reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint, individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper;

and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council;

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed;

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

suitable provision be made for his support according to his rank in life, and to his own wants and those of his family;

and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamíndárs, taluqdárs and others situated within the territories dependent on the Presidency of Fort William, should be attached and placed under the temporary management of the Revenue-authorities, without having recourse to any judicial proceeding;

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government;

the Vice-President in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated.

Proceeding for placing persons under restraint as State prisoners.

2. *First.*—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of warrant.

Second.[a]—The warrant of commitment shall be in the following form:—

To the [*here insert the officer's designation.*]

"Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that [*here insert the State prisoner's name*] shall be placed under personal restraint at [*here insert the name of the place*], you are hereby required and commanded, in pursuance of that determination, to receive the person above named into your custody, and to deal with him in conformity to the orders of the Governor General in Council, and the provisions of Regulation III of 1818.

"Fort William, the

"By order of the Governor General in Council,

"*A. B.*, Chief Secy. to Govt."

Authority of warrant.

Third.—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William.

Officers having custody of State prisoners, to submit

3. Every officer in whose custody any State prisoner may be placed shall, on the 1st of January and 1st of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political

[a] See Act No. XXXIV of 1850.

periodical reports.

Department, on the conduct, the health, and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

State prisoners in custody of zila or city Magistrate by whom to be visited.

4. *First.*—When any State prisoner is in the custody of a zila or city Magistrate, the Judges are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head.

State prisoners in custody of public officer not being zila or city Magistrate, by whom to be visited.

Second.—When any State prisoner is placed in the custody of any public officer not being a zila or city Magistrate, the Governor General in Council will instruct either the zila or city Magistrate, or the Judge or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

Representations by State prisoners to be submitted to Government.

5. The officer in whose custody any State prisoner may be placed, is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council.

Report to Government regarding confinement, &c., of prisoners.

6. Every officer in whose custody any State prisoner may be placed, shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council, whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Appropriation of allowance for support.

7. Every officer in whose custody any State prisoner may be placed, shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

8.—[*Repealed by Act No. XVI of 1874.*]

Attachment of estates by order of Government without decision of Court.

9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamíndár, jágírdár, taluqdár or other person, without any previous decision of a Court of Justice, or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated,[a] to the Sadr Díwání Adálat and Nizámat Adálat.

[a] *Sic.* Read "and to."

10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjudged on the same principles as those of other estates held under khás management. Management of attached estates.

Second.—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment. Attached lands not liable to sale in execution.

Third.—In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts. Government to arrange for satisfaction of decrees.

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue Authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate, which may have accumulated during the attachment. Rules as to cases where Government orders release of estate from attachment.

REGULATION I OF 1819.

Passed on the 5th of February 1819.

A Regulation *for replacing the districts of Dinájpur and Rangpur under the management of the Board of Revenue; for extending the authority of the Board of Commissioners in Bihár and Benares to the district of Gorakhpur;* for re-establishing Kánúngos and reforming the office of patwárí throughout the Province of Bengal; and for explaining and modifying certain parts of Regulation XII. 1817.

1, 2, 3.—[*Repealed by Act No. XII of 1873.*]

4. *First.*—Kánúngos shall be appointed throughout the Province of Bengal in the same manner, and for the performance of the same duties, as are prescribed in Regulation V. 1816,[a] in regard to the district of Katak, the pargana of Paṭaspur and its dependencies; and all the rules contained in the Regulation aforesaid are hereby extended generally to the Province of Bengal. Appointment of kánúngos throughout Bengal.

[a] See *supra*, p. 117.

Regulation XII of 1817 extended.

Second.—The provisions of Regulation XII. 1817,[a] are in like manner hereby extended to the several districts of the said Province to which they have not yet been applied.

Nomination of kánúngos by persons other than Collectors.

Third.—Provided, however, that in cases in which it may not appear advisable, from whatever cause, to leave the selection and nomination of the kánúngos to the Collector of the district, it shall be competent to the Governor General in Council to appoint such other officer specially to perform that duty, as he may judge expedient; and the officer so appointed shall have and exercise, during such period as the Governor General in Council may direct, the same powers as are vested generally in Collectors of land-revenue, under the provisions of Regulation V. 1816,[b] and Regulation XII. 1817.[c]

But nothing herein contained shall be construed to preclude the person holding permanently the office of Collector in such district from discharging the ordinary duties of his situation, under the general rules and regulations applicable to that branch of the public service.

Power to suspend operation of rules regarding kánúngos and patwáris.

Fourth.—Provided further, that it shall be competent to the Governor General in Council to suspend the operation of the rules contained in this or any former Regulation, regarding kánúngos and patwáris, within any mahál in which the establishment of such officers, as prescribed in those rules, may appear to be inexpedient.

Board of Revenue may alter duties of kánúngos.

Fifth.—Provided likewise, that it shall be competent to the Board of Revenue or other Authority exercising the powers of that Board, to make such alteration in the duties to be performed by kánúngos as local circumstances shall suggest; anything in section 7, Regulation IV. 1808,[d] and other corresponding enactments, to the contrary notwithstanding.

And suspend operation of Regulation XII. 1817 in certain places.

Sixth.—Provided also, that it shall be competent to the Board of Revenue to suspend by proclamation the operation of the rules of Regulation XII. 1817[c] in the districts of Chittagong and Silhat, and in any other parts of the country in which individual estates may generally be of inconsiderable extent, until they shall have determined, under the discretion vested in them by sections 3, 18 and 33 of that Regulation, the number of patwáris to be appointed or retained, the mode in which they are to be remunerated, and the mahál to be permanently exempted from its general operation.

Collector may nominate and appoint patwárí in certain cases.

5. In all cases in which any village or villages, or any lands whatsoever, the accounts of which may be kept by a single patwárí, shall be held by two or more persons under distinct engagements with Government, it shall be competent to the Collector, with the approval of the Board of Revenue or other Authority exercising the powers of that Board, to assume the direct nomination

[a] [c] See *supra*, p. 123. [b] See *supra*, p. 117.

[d] Repealed by Act No. XIX of 1873.

and appointment of such patwárí, with or without a reference to the proprietors.

But in all such cases the Collector shall deviate as little as possible from established usage, and shall be careful to consult the inclinations, and maintain the interests, of all persons connected with the maháls in question.

Explanation of section 11, Regulation XII. 1817.

6. In explanation of section 11, Regulation XII. 1817,[a] it is hereby declared and enacted, that if any proprietor or farmer of land shall refuse or omit to furnish the statement required by section 4 of that Regulation, within the period therein prescribed, or at any subsequent period, when called upon to do so by the Collector or other officer exercising the powers of Collector, it shall be competent to the Collector or other officer aforesaid, with the approval of the Board of Revenue or other Authority exercising the powers of that Board, to levy a daily fine upon such proprietor or farmer, until the statement required be furnished, to such amount as may appear proper, with reference to the circumstances of the case, and to the condition in life of the offender.

Penalty for unauthorized removal, &c., of patwárí.

7. The penalties prescribed in section 13, Regulation XII. 1817, for the illegal removal of a patwárí from office, by a zamíndár or other proprietor or farmer of land, are hereby declared applicable to all persons whatsoever who may, without due authority, remove from office any patwárí duly constituted or appointed; or who may oppose a patwárí so appointed or constituted, in the performance of his duties; or who may prevent his performing them, or who may resist or evade the entry of a patwárí, when duly appointed, into the possession of his office.

REGULATION II OF 1819.

Passed on the 12th of February 1819.

A Regulation for modifying the provisions contained in the existing Regulations, regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made.[b]

Preamble.

1. THE rules contained in Regulations XIX[c] and XXXVII.[d] 1793, relative to the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and the corresponding provisions enacted in subsequent

[a] See *supra*, p. 123.

[b] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

[c] See *supra*, p. 32.

[d] See *supra*, p. 46.

years, having been found inadequate to secure the just rights of Government, have from time to time been partially repealed or modified.

Those rules, however, are still in force within several of the districts subordinate to this Presidency, and the Regulations by which they have in other districts been superseded, appear to be in several respects defective.

It further appears to be necessary, in order to obviate all misapprehension on the part of the public officers, or of individuals, to declare generally the right of Government to assess all lands which, at the period of the decennial settlement, were not included within the limit of an estate for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the above period, nor lands held free of assessment under a valid and legal title; and at the same time formally to renounce all claim on the part of Government to additional revenue from lands which were included within the limits of estates for which a permanent settlement has been concluded, at the period when such settlement was so concluded, whether on the plea of error or fraud, or on any pretext whatever, saving, of course, mahâls expressly excluded from the operation of the settlement.

With the view, therefore, of establishing, on proper principles, one uniform course of proceeding in resuming the revenue of lands liable to assessment, so that the dues of Government may be secured without infringement of the just rights of individuals, the following rules have been enacted, to be in force from the date of their promulgation throughout the Provinces immediately subordinate to the Presidency of Fort William.

2.—[*Repealed by Act No. XVI of 1874.*]

Lands not included in decennial settlement, &c., liable to assessment, except lands held free of assessment under valid title.

3. *First.*—It is hereby declared and enacted, that all lands which, at the period of the decennial settlement, were not included within the limits of any pargana, mauza or other division of estates for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the period above referred to, nor lands held free of assessment under a valid and legal title of the nature specified in Regulations XIX[a] and XXXVII.[b] 1793, and in the corresponding Regulations subsequently enacted, are and shall be considered liable to assessment in the same manner as other unsettled mahâls, and the revenue assessed on all such lands, whether exceeding one hundred bîghâs or otherwise, shall belong to Government;

Proviso.

provided, however, that nothing in the above rule shall be construed to affect the rights reserved to zamîndârs, taluqdârs and other proprietors of estates, with whom a permanent settlement has been concluded, to the exclusive enjoyment of the rent assessed on lands held on an invalid tenure, free of

[a] See *supra*, p. 32.

[b] See *supra*, p. 46.

assessment, within the limits of their respective estates and taluqs, and of which the extent may not exceed one hundred bíghás if in Bengal, Bihár or Orissa, and fifty bíghás if within the Province of Benares.

Second.—The foregoing principles shall be deemed applicable not only to tracts of land, such as are described to have been brought into cultivation in the Sundarbans, but to all chars and islands formed since the period of the decennial settlement, and generally to all lands gained by alluvion or dereliction since that period, whether from an introcession of the sea, an alteration in the course of rivers, or the gradual accession of soil on their banks. Same principle applicable to chars and alluvion lands.

Third.—The same principle shall likewise be deemed applicable to all lands which, though included at the period of the permanent settlement within the limits of taluqs held by individuals under special pattás from the Collector, such as the patitábádí and jangalburí taluqs in the districts of the Twenty-four Parganas and Jessore, may not have been permanently assessed at the above-mentioned period; Also to lands included within particular taluqs.

provided, however, that in respect to such lands, if in the possession of the original pattá-holder, or his legal representative, the conditions of the pattá in regard to the assessment of the land included within the limits specified in that instrument shall be strictly maintained. Proviso.

4. The several rules prescribed in Regulations XIX[a] and XXXVII[b] of 1793; and Regulations XLI and XLII of 1795; Regulations XXXI and XXXVI of 1803; Regulations VIII and XII[c] of 1805, for determining the validity of grants for holding lands exempt from the payment of public revenue, are hereby declared applicable to grants for holding lands under mukarrarí or other tenures limiting the demand of Government; Application of existing rules to grants for holding lands under mukarrarí or other tenures.

provided, however, that nothing in this section shall be construed to affect the rules contained in Regulation VIII. 1793,[d] relative to the assessment of lands held under valid grants or leases of the above nature, nor to alter the provisions contained in Regulation I. 1815,[c] by which tenures of that description are declared liable to assessment on the death of the grantee. Proviso.

5. *First.*—Whenever a Collector of revenue or other officer exercising the powers of Collector shall have reason to believe that any lands lying within the sphere of his official control are liable to assessment, either as being held under an invalid tenure free of assessment, or at an inadequate jama, or as being liable to assessment on the principles stated in section 3 of this Regulation, he shall report the circumstances to the Board of Revenue or other Authority exercising the powers of that Board, who, should they be of opinion that proper grounds exist for inquiry, shall direct the Collector or other officer Power to direct investigation regarding liability of lands to be assessed.

[a] See *supra*, p. 32. [b] See *supra*, p. 46.
[c] See *supra*, p. 75. [d] See *supra*, p. 19. Repealed by Act No. XXIX of 1871.

aforesaid to enter on an investigation of the case in the manner hereafter mentioned.

Notice to party.

Second.—The Collector, on receiving the authority of the Board of Revenue, shall call the party before him by a notice stating the demand of Government on the lands, and requiring him to attend either in person or by vakíl, within the period of one month, and to produce all sanads or other writings in virtue of which he may possess the lands, or under which they may have been, or may be, claimed to be held free of assessment, or at a fixed jama.

Or to his agent, if accredited agent reside at sadr station.

Third.—If the persons whose lands it is proposed to assess have an accredited agent at the sadr station, with general powers to act for his principal, the notice to be issued under the preceding clause shall be tendered to such agent, to be communicated by him to his principal, and the agent's acknowledgment to be endorsed upon it shall be accepted as a sufficient service of it, if he be desirous of giving such acknowledgment in preference to the notice being served on the person of his principal by a chaprási or peon of the Collector.

Notice on principal to be served through názir by single peon.

Fourth.—If the person, the revenue of whose lands it is proposed to resume, shall not have an accredited agent at the sadr station of the description above-mentioned, or if such agent shall decline receiving the notice for communication to his constituent, and the defendant be resident within the Collectorship, it shall be served on him through the názir of the Collector by a single chaprási or peon, who shall require the acknowledgment of the party to be endorsed upon it, or, if he be absent from his usual place of residence, the acknowledgment of his principal agent, or of any person acting for him during his absence.

Notice how served if party reside in another jurisdiction.

If the party be resident within the jurisdiction of any other Collectorship than that in which the lands proposed to be assessed are situated, the notice shall be transmitted to the Collector of the district in which the party may reside, to be served in the manner above directed.

If the party be neither resident within the Collectorship in which the lands in question may be situated, nor in any other Collectorship, the notice shall be served upon his agent or representative in charge of the lands.

If acknowledgment be refused, tender of notice sufficient service.

Fifth.—Provided always, that if any party or his agent in charge of his land, on whom a notice may be served in the manner above prescribed, shall refuse to acknowledge the receipt of it when required by the person serving it, the tender of the notice to such party or his agent shall be taken for a sufficient service; such tender to be proved by the evidence of two persons residing on the lands or in the nearest village.

Contents of notice.

Sixth.—The Collector shall, in the notice summoning the party, warn him, that if he withhold any writings of the nature specified in the second clause of this section, within the period prescribed, they will not afterwards be received,

unless he shall show good and sufficient cause for not producing them, and shall assign such cause on his appearing before him.

6. *First.*—If the holder of such lands to whom a notice may have been issued as directed in the preceding section shall abscond, or is not, after diligent search, to be found, or shall shut himself up in any house or building, or retire to any place, so that the notice cannot be served upon him, the Collector or other officer exercising the power of Collector, on receiving the názir's return to this effect, shall issue a proclamation, to be affixed in some conspicuous part of his kachahrí. If notice cannot be served, proclamation to be issued.

The proclamation shall be written in the Persian and Bengal languages in the Provinces of Bengal and Orissa (including Katak); and in the Hindústání language and Nágarí character in Bihár, Benares and in the Ceded and Conquered Provinces; and it shall contain a copy of the former notice, and a further notification to the party, that if he shall not appear on a day to be fixed (which shall not be less than fifteen days from the time that the proclamation may be fixed up), the Collector will proceed, without further notice, to hold the inquiry *ex parte*.

The Collector or other officer exercising the power of Collector shall likewise order a copy of the proclamation and notice to be fixed up, with all practicable dispatch, on the outer door of the house in which the holder of the lands may have usually dwelt, or in some conspicuous place in the chief village within, or in the neighbourhood of, the lands proposed to be assessed.[a]

Second.—The názir shall return the order with an endorsement stating at what times and places the proclamation may have been fixed up. Názir's return how made.

The return of the názir shall be filed with the Collector's proceedings in the case.

If the party shall not appear at the time limited in the proclamation, or if a party who may have been served with a notice shall not appear within the time therein limited, or if, having appeared, he shall refuse to give answer, the Collector shall proceed to investigate and decide upon the case in the same manner as if the party had appeared, answered and entered into proof. If party does not appear refuses to answer, case to be investigated.

7. In cases of land supposed to be liable to assessment under the provisions of section 3 of this Regulation, the Collector or other officer exercising the powers of Collector, shall institute a full and particular inquiry into the circumstances and condition of the land in question at the period of the decennial settlement; and, in cases of alluvion land, into the period of its formation. What inquiry to be made.

8. When an inquiry in regard to land of the nature of that described in the foregoing section shall have been authorized, it shall be competent to the Collector with sanction of Board may

[a] Modified by Regulation IX of 1825, section 5.

cause survey or measurement.

Collector, with the sanction of the Board of Revenue or other Authority exercising the powers of that Board, previously obtained, to cause a survey or measurement to be made of all such lands, and of the estate to which such lands may be alleged to belong.[a]

Collector may summon patwáris, and require accounts and examine on oath.

9. It shall likewise be competent to the Collector, in all cases of inquiry held under the provisions of this Regulation, to summon the patwárí, gumáshta or other person by whom the accounts relating to the lands proposed to be assessed, or to the estate to which the lands may be alleged to belong, are kept, and to require him to produce all accounts relating to such lands or estate, and to examine him on oath to the truth of such accounts, and on any other matter relating to such accounts, or regarding such lands or estate, in the manner specified in section 22, Regulation XII of 1817.[b]

And may require attendance of person claiming land, with his accounts.

10. It shall be further competent to the Collector in such cases, with the sanction of the Board of Revenue or other Authority exercising the powers of that Board, to require the person claiming to be proprietor or farmer of the lands proposed to be assessed, or of the estates to which they are alleged to belong, to attend either in person or by representative, and to produce all the accounts relating to such lands or estate, within a reasonable period, not being less than one week.[c]

Notice to such person.

11. Whenever the Collector or person exercising the powers of Collector shall require the attendance of any proprietor or farmer, or of any patwárí or gumáshta or other officer, for the purpose stated in the above section, he is to serve such proprietor or other person as aforesaid, with a written notice under his official seal and signature, stating the purpose for which his attendance is required, the papers (if any) which he is to bring with him, and the period within which he is to attend.

Second.—[*Repealed by Act No. XII of 1876.*]

Penalties on patwáris neglecting to produce accounts, falsifying them or giving false evidence.

12. If any patwárí, gumáshta or other person by whom the accounts of lands are kept, and who may be summoned by a Collector or Commissioner, under the provisions contained in sections 9 and 11 of this Regulation, shall neglect or omit to produce his original accounts on the requisition of the Collector or Commissioner, or to give his evidence regarding them, or shall intentionally and deliberately give a false deposition on oath before the Collector or Commissioner, when summoned and examined as aforesaid, or shall alter, fabricate, falsify or mutilate the accounts relating to such lands, or to the estate to which such lands are stated to belong, shall be and be held liable to the pains and penalties specified in sections 23, 26 and 27 of Regulation XII. 1817,[d]

a, c Modified by Regulation IX of 1825, section 5.
b, d See *supra*, p. 123.

according as the provisions of one or other of those sections may be applicable to the offence committed by him.

Lands may be attached, if holders neglect to furnish accounts.

13.—*First.*—If the holder of any lands in regard to which the Collector shall have been authorized by the Board of Revenue or other Authority exercising the powers of that Board to institute the inquiry described by section 7 of this Regulation, shall refuse or neglect to furnish the accounts relating to such lands within the period specified in the Collector's requisition, the Board of Revenue or other Authority exercising the powers of that Board shall be competent to direct the lands to be immediately attached, and the rents collected on account of Government, in the same manner as if the lands were the property of Government.

Inquiry in such cases.

In such cases, however, it shall still be the duty of the Collector to make a full inquiry into the title of the holder of the lands, and to transmit his proceedings to the Board, who will decide whether the lands shall be deemed permanently liable to assessment.

Accounts not furnished to Revenue-authorities, not afterwards to be received in evidence in suits to contest their decision. Exception.

Second.—Provided further, that if the holder of any lands assessed under the rules of this Regulation shall institute a suit in Court to contest the decision of the Revenue-authorities, and shall produce any accounts or documents besides such as he may have delivered to the Collector, the accounts or documents so produced shall not be received by the Court in evidence, nor shall they have any weight in the decision, any more than if they had never existed, unless he shall show good cause, to the satisfaction of the Court, for not having produced the said accounts or documents, and shall prove that he assigned such cause in answer to the Collector's requisition, or show good cause for not having done so.

Fines for non-attendance of proprietor or agent, or for omission to furnish accounts.

Third.—Provided also, that if any proprietor or farmer shall omit or refuse to attend, or to cause his officer or agent to attend, when duly summoned by the Collector or Commissioner, by the time prescribed in the notice issued by the Collector or Commissioner, or shall omit or refuse to furnish the accounts or documents required, and to show sufficient cause for such omission, the Board of Revenue or other Authority exercising the powers of that Board, are authorized and empowered to impose upon him such daily fine, to be payable daily, until he complies with the Collector's requisition, as they may think adequate to his situation and circumstances in life, reporting, however, the amount for the information of the Governor General in Council.

The fine, when confirmed by Government, is to be levied by the same process as is prescribed for the recovery of arrears of revenue.

Penalties for resistance of process.

14. If any zamíndár or other person shall resist, or cause to be resisted, the attachment or measurement of lands which the Board of Revenue or

* Modified by Regulation IX of 1825, section 5.

other Authority exercising the powers of that Board shall have authorized the Collector or Commissioner to attach or measure under the provisions of this Regulation, or shall resist, or cause to be resisted, any process duly issued by the Collector or Commissioner, to compel a patwárí, gumáshta or other officer to produce his accounts, and to give his evidence respecting them under the provisions contained in section 9 of this Regulation, it shall be competent to the Board of Revenue or other Authority exercising the powers of that Board, on being satisfied that he is guilty of the charge, to adjudge the zamíndár or other person so offending to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances in life, and of the offence which he may have committed, and to levy the fine in the mode prescribed for the recovery of arrears of revenue;

Proviso.

provided, however, that if the fine shall exceed five hundred rupees, the Board shall submit a report of the case to the Governor General in Council, and shall not proceed to levy the fine until they shall receive authority from Government for that purpose.

Procedure when parties attend and produce title-deeds.

15. When the party whose lands it may be proposed to assess shall appear in conformity with the notice or summons, and shall deliver up his title-deeds, the Collector shall give a receipt for them, and after duly examining them, shall deliver to the party a statement of the grounds on which his land may appear liable to assessment, with copies, on plain paper, of all documents on which his opinion may be founded.

The Collector shall then desire the party to deliver a written answer within seven days.[a]

Procedure in respect of documents produced.

16. It shall be the duty of the Collector or other officer exercising the powers of Collector carefully to number, mark, date and sign all documents produced by a zamíndár or other person in possession of the lands proposed to be assessed, in support of his claim to hold them free of assessment, or as parcel of an estate for which a permanent settlement shall have been concluded, and to insert in his proceedings the title and number of such documents, so that no doubt may exist in regard to their having been exhibited before him;

and the Collector shall, before proceeding to judgment, warn the party that no accounts or other documentary evidence of any kind which he shall not produce before him, and for not producing which he may not assign good and sufficient cause, will be received at any future period, either by the Revenue or Judicial Authorities, and shall record his having done so on the face of his proceedings.

[a] Modified by Regulation IX of 1825, section 5.

Witnesses for and against claim of Government to be examined.

17. On receiving the answer of the party, the Collector shall summon any witnesses he may deem necessary to support the claim of Government, with any which the party may desire to have summoned on his behalf, and shall take their depositions in judicial form, and in the presence of the party or his authorized agent.

Examination of documents.

18. The Collector shall carefully examine all documents that may be produced by the party, and shall likewise give the party access to inspect all documents on which he may rely in proof of the liability of the land to assessment.

Collector's authority to summon witnesses and administer oath.

19. *First.*—The Collectors and other officers exercising the powers of Collectors are hereby authorized to summon witnesses and administer oaths, or cause the execution of solemn declarations in lieu thereof, in all cases brought before them under this Regulation.

Second.—[*Repealed by Act No. XII of 1873.*]

Third.—[*Repealed by Act No. XII of 1876.*]

Procedure on completion of inquiry.

20. Having closed his proceedings, the Collector shall record his opinion in a rúbakárí detailing the grounds on which it is founded, and whether the lands appear liable to assessment or otherwise, and shall forward his proceedings to the Board of Revenue or other Authority exercising the powers of that Board, in such mode as may be directed by that Authority, furnishing the party at the same time with a copy on plain paper of the final rúbakárí aforesaid, and reporting his having done so to the Board or other Authority aforesaid.

Procedure of Board on receipt of Collector's proceedings.

21. *First.*—The Board of Revenue or other Authority aforesaid, after calling for any further evidence which, on a consideration of the Collector's proceedings, they may deem wanting, shall, on a day to be fixed by a public notice affixed in the office, not being less than six weeks from the date on which the Collector may have furnished the party with a copy of his final rúbakárí, and after hearing anything which the party, if in attendance, may wish to urge in his own behalf, proceed to pass judgment in the case, and shall record their opinion in a rúbakárí, delivering a copy thereof to the party, on his requisition to that effect.

Final rúbakárís.

Second.—The final rúbakárís which the Collectors and the Boards are by the provisions of this section directed to record shall contain a distinct statement of the subject-matter of the case, the grounds on which the decision may be given, the names of the witnesses whose depositions may have been taken, and the title of every exhibit read.

In what cases decision of Boards final.

Third.—If the Board of Revenue or other Authority aforesaid pronounce against the assessment, the proceedings shall be considered final, except on proof in a court of judicature of fraud or collusion in the previous inquiry.

If land declared liable to assessment, Collector to fix assessment.

Fourth.—In the event of the Board's declaring the lands liable to assessment, the Collector shall inform the party or his vakíl of the decision of the Board, and shall proceed to ascertain the limits of the land, and shall fix an assessment on the principles of the general Regulations on such information as may be procurable.

When party may be left in possession of land.

22. *First.*—If the party shall, within a fortnight of his receiving intimation of the Board's decision, tender to the Collector responsible security for the payment, from that date, of the jama which may eventually be fixed on the land, with interest at the rate of twelve per cent., and shall engage to institute a suit in the Court in which the case may be cognizable within ten days, commencing from the date of the deed of security, or (if the Court shall be shut, and shall not be opened until after the expiration of such ten days) within three days, calculating from the day on which it may be opened, to try the justness of the demand, the Collector shall leave the party in possession as before, reporting the circumstance for the information of the Board;

Proviso.

provided, however, that in such cases the party shall produce all his accounts of collections for the information of the Collector, in estimating the amount of the security to be required. [a]

Procedure of Collector if party do not furnish full security.

Second.—If the party be willing to give security for a portion only of the jama eventually assessable on the land, it shall be competent to him to do so on the conditions above specified.

In this case the Collector shall, under the orders of the Board, either hold the lands khás or farm them for such period as the Board may direct, and shall pay to the party a portion of the collections proportionate to the amount for which he may be willing and able to give responsible security.

Court may determine on sufficiency of security tendered.

Third.—It shall be competent to the Court to direct the Collector to take the security offered by the party, if he shall refuse to do so, and the Court shall be satisfied that it is sufficient; but it shall rest with the Collector, subject to the directions of the Board, to fix the amount for which the surety is to be held bound.

Amount of security how regulated.

Fourth.—The amount shall not, in the first instance, exceed the estimated annual revenue assessable on the lands, or the amount receivable by the party in one year, with interest; but if, at the expiration of one year from the date on which the party may receive intimation of the Board's decision, the suit shall still be pending, it shall be competent to the Collector to require additional security for the same amount.

[a] Modified by Regulation IX of 1825, section 5, and Regulation III of 1828, section 10; also see section 8 of the former.

Fifth.—In mukarrarís the parties giving security, and intending to sue, shall continue to pay the mukarrarí jama, and will be required to give security for the remaining revenue which may be eventually demandable from them. Security in case of mukarrarís.

23. If the party do not give security, or, having given security, neglect to sue, the Collector shall proceed to the final assessment of the land. Final assessment.

24. *First.*—Persons whose lands may be assessed, either in failure to give security, or to institute a suit within the prescribed time, shall nevertheless be entitled to sue any time within one year from the date of their being informed of the Board's decision; but after the above period shall have elapsed, the decision of the Board shall be final and conclusive; Limitation of suits in Civil Courts.

provided, however, that in cases in which the party may be able to show good and sufficient cause for not having sued within the said period, such as minority or absence, no limitation as to time shall prevail other than that generally prescribed by the existing Regulations in regard to private claims. Proviso.

Second.—[*Repealed by Act No. XVI of 1874.*]

25.—[*Repealed by Act No. XVI of 1874.*]

26. *First.*—In cases instituted in the Zila Court an appeal shall be received by the Court of Sadr Díwání Adálat.[a] Appeal from Zila to Sadr Court.

Second.—The Sadr Díwání Adálat, in all cases of appeal being preferred in conformity with the provisions of this Regulation, shall, together with the decree against which such appeal may be lodged, likewise peruse the final rubákárí filed in the case by the Board of Revenue or other Authority exercising the powers of that Board; and if, on a consideration of those documents, the decision of the Court should appear unjust or erroneous or doubtful, or its proceedings in the case manifestly irregular or imperfect; or if, from the nature of the cause, as stated in the decree or otherwise, it shall appear to them of sufficient importance to merit a further investigation in appeal, they shall admit a *special*[b] appeal. Procedure on such appeals.

27.—[*Repealed by Act No. XVI of 1874.*]

28. *First.*—On the production of any written document purporting to be a farmán of any King of Dehli, or to be a sanad, parwána or other grant of any Wazír, or of any Nawáb, Rájá or other potentate or person formerly exercising authority in any part of the Provinces and territories now subject to the British Government, it shall be the duty of the Revenue and Judicial Authorities before whom such document may be produced, to ascertain the validity and Validity of farmáns, sanads or grants to be carefully ascertained.

[a] See Regulation XIV of 1825, section 6.

[b] The word 'special' is repealed by Act No. XVI of 1874.

authenticity of it, by reference to such offices and records, and by the examination of such living witnesses, as may be likely to lead to the due appreciation thereof; and the said Authorities shall not receive such document in evidence merely on the credit of the seal, or other attestations impressed upon it, without some external evidence in corroboration of its authenticity.

Such deeds not to be received unless registered.

Second.—Provided also, that no document of the above description which may be produced to any Court or Adálat shall be received, nor any proceedings held thereon, nor any faith given thereto, unless it shall be proved that the said document has been duly registered under the rules and requisitions of Regulations XIX[a] and XXXVII.[b] 1793; XLI[c] and XLII.[d] 1795; VIII. 1800[e]; XXXI[f] and XXXVI.[g] 1803; and VII. 1808[h]; or unless due cause be shown for the non-registry.[i]

Regulation applied to cases in which Collector suspects validity of original tenures of land, subsequently commuted for money-pensions.

29. Whenever a Collector or other officer exercising the powers of Collector shall have reason to suspect the validity of the original tenure under which any land subsequently commuted for a money-pension of the description noticed in Regulation XXIV. 1803,[j] and Regulation VI. 1817,[k] was held, it shall be competent to him, with the previous sanction of the Board of Revenue or other Authority exercising the powers of that Board, to proceed in the investigation of the tenure under which such land was held, in the same manner as Collectors are authorized by this Regulation to proceed in regard to the tenure of lands now held free of assessment; and if the Board shall be of opinion that the tenure was invalid, it shall be competent to them to resume the money-pension granted in consideration thereof, subject to an appeal to the courts of judicature in the manner prescribed by this Regulation in cases in which the Board may direct the assessment of land held free of assessment:

Proviso.

provided, however, that it shall not be competent to the Revenue Authorities to resume any money-pension of the above description, of which the incumbent may have been in the enjoyment, under orders of the Governor General in Council, for a period of twelve years or more.

30. [*Repealed by Bengal Act No. VII of 1862.*]

[a, b] See *supra*, pp. 32, 46.

[c, d] Repealed by Act No. XIX of 1873.

[e] Repealed, except section 19, by Act No. XV of 1874 and Bengal Act No. VII of 1876.

[f, g] Repealed by Act No. XIX of 1873.

[h] Repealed by Act No. XXIX of 1871.

[i] See Regulation XIV of 1825, section 3, *infra*.

[j, k] Repealed by Act No. XXIII of 1871.

31. *First.*—Nothing in the present Regulation shall be considered to affect the right of the proprietors of estates for which a permanent settlement has been concluded to the full benefit of all waste-lands included within the ascertained boundaries of such estates respectively, at the period of the decennial settlement, and which have since been or may hereafter be reduced to cultivation. The exclusive advantages resulting from the improvement of all such lands were guaranteed to the proprietors by the conditions of that settlement, and it being left to the courts of judicature to decide on all contested cases, whether lands assessed under the provisions of this Regulation were included at the period of the décennial settlement within the limits of estates for which a settlement has been concluded in perpetuity, and to reverse the decision of the Revenue Authorities in any case in which it shall appear that lands which actually formed, at the period in question, a component part of such an estate, have been unjustly subjected to assessment under the provisions of this Regulation, the zamíndárs and other proprietors of land will be enabled, by an application to the Courts, to obtain immediate redress in any case in which the Revenue Authorities shall violate or encroach on the rights secured to them by the permanent settlement.

Regulation not to affect right of proprietors to waste-land guaranteed at permanent settlement.

Second.—It is further hereby declared and enacted, that all claims by the Revenue Authorities on behalf of Government to additional revenue from lands which were at the period of the decennial settlement included within the limits of estates for which a permanent settlement has been concluded, whether on the plea of error or fraud, or on any pretext whatever, saving, of course, the case of lands expressly excluded from the operation of the settlement, such as lákhiráj and thánadárí lands, shall be, and be considered wholly illegal and invalid.

Nor to warrant claim to additional revenue from lands permanently assessed on plea of error or fraud. Exception.

REGULATION VI OF 1819.

Passed on the 25th of June 1819.

A Regulation for rescinding Regulation XIX. 1816, and for enacting other provisions in lieu thereof. [a]

1. WHEREAS the rules contained in Regulation XIX. 1816, intituled, "A Regulation for the better management of ferries," &c., have not in their general operation been attended with the advantages contemplated by Government in enacting them;

Preamble.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

and whereas it has been judged expedient to restrict the interference of the officers of Government in regard to ferries to objects connected with the maintenance of an efficient Police, the safety and convenience of travellers, and the facility of commercial intercourse:

and whereas it will in consequence be expedient to place such ferries under the exclusive charge of the Magistrates and Joint Magistrates,

the following rules have been enacted, to be in force throughout the Provinces subject to the Presidency of Fort William.

2. *First.*—[*Repealed by Act No. XVI of 1874.*]

Superintendence of public ferries vested in Magistrates.

Second.—The Collectors of Revenue will refrain from exercising any interference with the public ferries, the immediate superintendence of which shall be vested in the Magistrates and Joint Magistrates.

What ferries considered public ferries.

3. *First.*—No ferries shall be hereafter considered public ferries, except such as may be situated at or near the sadr stations of the several Magistrates or Joint Magistrates, or such as may intersect the chief military routes, or other much-frequented roads, or such as from special considerations it may appear advisable to place under the more immediate management of the Magistrates and Joint Magistrates.

Power to determine what are public ferries.

Second.—The Government reserves to itself the power of determining, from time to time, what ferries shall, under the preceding rule, be deemed public ferries, and as such shall be subject to the immediate control of the Magistrates and Joint Magistrates;

Magistrates not to assume charge of unassessed ferries without authority.

and no Magistrate or Joint Magistrate shall, without previous authority from Government, assume the management of any ferry which may not have been let in farm or held khás, or otherwise subjected to assessment by the Collectors.

Lists of proposed ferries to be submitted to Government.

Third.—It will be the duty of the several Magistrates and Joint Magistrates to prepare lists of the ferries which, in their judgment, should, under the foregoing rules, be considered to be public ferries, and transmit them, as soon as prepared, for the information and orders of Government.

Appointment of persons to charge of ferries.

4. *First.*—The power of appointing proper persons to the charge of the public ferries is vested in the Magistrates and Joint Magistrates, who are authorized from time to time to issue such orders as they may judge expedient for limiting the rates of toll to be levied at each ferry, for regulating the number and description of boats to be maintained, for preventing exactions, and generally for promoting the efficiency of the Police, and the safety and convenience of the community.

Rates of toll, number of boats, &c.

Removal of mánjhís or others in charge of ferries.

Second.—On proof of any wilful breach of those rules, or of other misconduct on the part of the mánjhís or other persons in charge of the public ferries, the Magistrates and Joint Magistrates are empowered (independently

of any punishment to which the parties may subject themselves under the general Regulations) to remove such individuals and to appoint others in their room.

Third.—The mánjhís or other persons who may be vested with the charge of public ferries are to engage to cross free of toll the troops of Government, with their baggage and military stores, as well as all Police and other Native officers of Government who may be actually employed on the public service. Persons exempted from toll.

5. A list of all public ferries, bearing the signature of the Magistrate or Joint Magistrate, shall be constantly stuck up in some conspicuous place in their kachahrís, and in that of the Collector of the district, and likewise in the tháná within the jurisdiction of which they may be situated. Publication of attested lists of ferries.

6.—[*Repealed by Bengal Act No. I of 1866.*]

7. *First.*—In assuming the management of public ferries, the general objects of the Magistrates and Joint Magistrates shall be the maintenance of an efficient Police, the safety and convenience of travellers, the facility of commercial intercourse, and the expeditious transport of troops. Objects to which Magistrates and Joint Magistrates are to attend, in assuming charge of public ferries.

For the above objects, they shall be careful to provide or cause to be provided safe and commodious boats; they shall fix the rates of toll on a very moderate scale, in no case exceeding, without an indispensable necessity, the rates which prevailed previous to the enactment of Regulation XIX. 1816; they shall adjust the modes of payment, so that the tolls may bear as lightly as possible on the poorer classes of the community, and by leaving a fair profit to the individual who may be chosen for the immediate charge of the ferries, they shall endeavour to secure as far as possible the services of respectable and competent persons.

Second.—No collections shall be taken on account of Government, from the proceeds of any ferry, until the above objects are fully secured; and if in any case there shall remain a clear surplus-profit after providing adequately for those purposes, the amount collected shall be applied solely to the furtherance of similar objects; such as the repair or construction of roads, bridges and drains, the erection of saráís or other works of a like nature. Collections for Government. Surplus-collections how appropriated.

Third.—In cases of the latter description, namely, those in which the receipts of any ferry shall be sufficient to afford a surplus-revenue as above-mentioned, the Magistrate or Joint Magistrate, having previously received special authority from Government in that behalf, may and shall require the person holding or applying for the charge of the ferry, to enter into an engagement for the payment, by monthly or quarterly instalments, of such a sum of money as, with reference to the estimated surplus, may appear justly demandable, without risking the primary objects above indicated; and if any person in charge of a ferry shall refuse to enter into an engagement as aforesaid, Proceeding where public ferry yields surplus. Engagement for payment of instalments.

Procedure when person refuses to engage.

and shall not assign sufficient cause for such refusal to the satisfaction of the Magistrate or Joint Magistrate, it shall be competent to such officer to transfer the charge of the ferry to any other respectable and competent person:

provided, however, that no person in charge of a ferry, who shall otherwise conduct himself to the Magistrate's satisfaction, shall be removed from his charge under the above rule, excepting at the expiration of the Bengal or Faslí year, according to the era current in the Province.

Mode of paying collections realized.

Fourth.—The mode in which collections made under this section shall be paid, whether into the treasury of the Magistrate or Collector, or any other public officer, shall be determined by the orders of Government, and adjusted with the party by the Magistrate or Joint Magistrate, at the time of giving him charge of the ferry or ferries intrusted to him;

Receipts for payments by ferry-renters.

provided, however, that, as a general rule, all persons in charge of ferries subject to the payment of a rent shall, on discharging any instalments, receive and be directed to require receipts for the amount, which shall be countersigned by a European officer of Government.

Security to be given by persons in charge of public ferries.

8. The Magistrate or Joint Magistrate shall be competent to take security for the good behaviour of persons vested with the charge of public ferries, and in the case of persons who may, under the provisions of the foregoing section, enter into an engagement for the payment of a yearly rent, it shall likewise be competent to the officers aforesaid to require adequate security for the punctual payment of the amount as it may become due.

Persons when allowed to relinquish charge.

9. Any person in charge of a public ferry, whether subject to the payment of rent or not, shall be at liberty to relinquish the charge on giving ten days' notice to the Magistrate or Joint Magistrate, and on paying any arrears that may be due:

Proviso as to transfer of boats.

provided, however, that it shall in such case be competent to the Magistrates or Joint Magistrates to require any person who may so relinquish the charge of a ferry, or who may be removed from such charge, to transfer the boats belonging to the ferry to the person who may be appointed to succeed him, at a fair valuation, or to retain the boats until others can be provided, making a suitable compensation to the owner.

Recovery of rent from defaulter.

10. If any person having charge of a ferry, and subjected to the payment of a yearly rent, shall fail to discharge the amount as it may become due, he shall be liable to immediate removal, and the Magistrate or Joint Magistrate, after ascertaining the arrear and certifying the default, will proceed to the recovery of the amount from the party and his surety, in the manner prescribed for the recovery of public money embezzled by Native officers of the civil and criminal Courts; giving at the same time a liberal consideration to any pleas which the party may urge in explanation of the default.

11. All persons vested with the charge of public ferries, whether paying any rent or not, shall, on accepting the situation, be distinctly apprized that the Magistrates and Joint Magistrates reserve to themselves the power of reducing the rates of toll, or extending the exemptions from the payment of it, at such times and in such manner as shall appear proper, with a view to the public good; Information to persons receiving charge of ferries.

provided, however, that in the event of any such measures being adopted, the party in charge of the ferry may relinquish the charge, and the Magistrate shall in such case purchase from him at a fair valuation, or cause his successor so to purchase, all boats belonging to the ferry, with all articles thereunto appertaining. Option to relinquish charge.

12. *First.*—Provided also, that whenever a Magistrate or Joint Magistrate shall adopt such measures in regard to any ferry for which a rent shall have been required from the person vested with the charge of it, the said Magistrate or Joint Magistrate shall, in communicating his orders to the party aforesaid, at the same time apprise him whether he designs to allow any and what reduction in the stipulated rent. Intended abatement of rent to be communicated to ferry-renter.

Second.—If the person in charge of the ferry shall not be willing or able to pay the rent so fixed by the Magistrate or Joint Magistrate, he shall nevertheless immediately carry the Magistrate's or Joint Magistrate's order into effect, and shall state in his reply to those orders the amount of rent which he may be willing to continue to discharge. Case of person unwilling to pay rent fixed by Magistrate.

Should the offer of the party in charge of the ferry appear inadequate, it shall be competent to the Magistrate or Joint Magistrate to remove him and to place another person in charge of the ferry, purchasing the boats and their appurtenances as aforesaid; but the person so removed shall be required to pay, for the days during which he may retain charge, subsequently to the date of his reply to the Magistrate's order, a proportionate rent, calculated at such rate only as he may have tendered. Power to replace person offering inadequate rent.

13. *First.*—The foregoing rules are intended to apply exclusively to those ferries which may be declared to be public ferries. With regard to all other ferries, the Magistrates and Joint Magistrates shall not interfere with them further than may be necessary for the general maintenance of the Police, and for the safety of passengers and property. Magistrates not to interfere with other than public ferries, except for purposes of Police, &c.

Second.—Provided, however, that if any person shall be drowned or exposed to imminent danger, or if any property shall be lost or damaged by the oversetting or sinking of a ferry-boat, and it shall be established on inquiry before the Magistrate or Joint Magistrate, that the boat was overloaded with passengers or property, or was insufficiently manned, or was out of repair at the time of the accident, the mánjhí of the ghát or boat, if duly convicted of Proviso, in cases where persons or property may suffer by boat being overloaded, or inadequately found.

permitting his boat to be overloaded, or to be insufficiently manned, or out of repair, shall be liable to such punishment as the Magistrate or Joint Magistrate may think proper to impose, not exceeding imprisonment for six months, or a fine of two hundred rupees.

REGULATION VIII OF 1819.

Passed on the 3rd of September 1819.

A Regulation to declare the validity of certain tenures, and to define the relative rights of zamíndárs and patní taluqdárs, also to establish a process for the sale of such taluqs in satisfaction of the zamíndár's demand of rent, *and to explain and modify other parts of the system established for the collection of rents generally throughout Bengal.*

Preamble.

1. By the rules of the perpetual settlement, proprietors of estates paying revenue to Government, that is, the individuals answerable to Government for the revenue then assessed on the different maháls, were declared to be entitled to make any arrangements for the leasing of their lands in taluq or otherwise, that they might deem most conducive to their interests.

By the rules of Regulation XLIV. 1793,[a] however, all such arrangements were subjected to two limitations: first, that the jama or rent should not be fixed for a period exceeding ten years; and, secondly, that in case of a sale for Government arrears, such leases or arrangements should stand cancelled from the day of sale.

The provisions of section 2, Regulation XLIV. 1793, by which the period of all fixed engagements for rent was limited to ten years, have been rescinded by section 2, Regulation V. 1812;[b] and in Regulation XVIII[c] of the same year it is more distinctly declared, that zamíndárs are at liberty to grant taluqs or other leases of their lands, fixing the rent in perpetuity at their discretion, subject, however, to the liability of being dissolved on sale of the grantor's estate for arrears of the Government revenue, in the same manner as heretofore.

In practice the grant of taluqs and other leases at a rent fixed in perpetuity had been common with the zamíndárs of Bengal for some time before the passing of the two Regulations last mentioned; but, notwithstanding the abrogation of the rule which declared such arrangements null and void, and

[a] Repealed by Act No. XXIX of 1871. [b] See *supra*, p. 110. [c] See *supra*, p. 114.

the abandonment of all intention or desire to have it enforced as a security to the Government revenue in the manner originally contemplated, it was omitted to declare in the rules of Regulations V[a] and XVIII[b] of 1812, or in any other Regulations, whether tenures at the time in existence and held under covenants or engagements entered into by the parties in violation of the rule of section 2, Regulation XLIV. 1793,[c] should, if called in question, be deemed invalid and void as heretofore.

This point it has been deemed necessary to set at rest by a general declaration of the validity of any tenures that may be now in existence, notwithstanding that they may have been granted at a rent fixed in perpetuity, or for a longer term than ten years, while the rule fixing this limitation to the term of all such engagements, and declaring null and void any granted in contravention thereto, was in force.

Furthermore, in the exercise of the privilege thus conceded to zamíndárs under direct engagements with Government, there has been created a tenure which had its origin on the estates of the Rájá of Bardwán, but has since been extended to other zamíndárís; the character of which tenure is, that it is a taluq created by the zamíndár, to be held at a rent fixed in perpetuity, by the lessee and his heirs for ever; the tenant is called upon to furnish collateral security for the rent, and for his conduct generally, or he is excused from this obligation at the zamíndár's discretion; but even if the original tenant be excused, still, in case of sale for arrears, or other operation leading to the introduction of another tenant, such new incumbent has always in practice been liable to be so called upon at the option of the zamíndár.

By the terms also of the engagements interchanged, it is amongst other stipulations provided, that in case of an arrear occurring, the tenure may be brought to sale by the zamíndár, and if the sale do not yield a sufficient amount to make good the balance of rent at the time due, the remaining property of the defaulter shall be further answerable for the demand.

These tenures have usually been denominated patní taluqs, and it has been a common practice of the holders of them to underlet on precisely similar terms to other persons, who on taking such leases went by the name of darpatní taluqdárs: these again sometimes similarly underlet to sepatnídárs; and the conditions of all the title-deeds vary in nothing material from the original engagements executed by the first holder.

In these engagements, however, it is not stipulated whether the sale thus reserved to himself by the grantor is for his own benefit, or for that of the tenant; that is, whether in case the proceeds of sale should exceed the

[a] See *supra*, p. 110. [b] See *supra*, p. 114. [c] Repealed by Act No. XXIX of 1871.

zamíndár's demand of rent, the tenant would be entitled to such excess; neither is the manner of sale specified, nor do the usages of the country nor the Regulations of Government afford any distinct rules, by the application of which to the specific cases, the defects above alluded to could be supplied or the points of doubt and difficulty involved in the omission be brought to determination in a consistent and uniform manner.

The tenures in question have extended through several zilas of Bengal, and the mischiefs which have arisen from the want of a consistent rule of action for the guidance of the Courts of civil judicature in regard to them have been productive of such confusion as to demand the interference of the legislature: it has accordingly been deemed necessary to regulate and define the nature of the property given and acquired on the creation of a patní taluq as above described, also to declare the legality of the practice of underletting in the manner in which it has been exercised by patnídárs and others, establishing at the same time such provisions as have appeared calculated to protect the under-lessee from any collusion of his immediate superior with the zamíndár or other, for his ruin, as well as to secure the just rights of the zamíndár on the sale of any tenure under the stipulations of the original engagements entered into with him.

It has further been deemed indispensable to fix the process by which the said tenures are to be brought to sale and the form and manner of conducting such sale;

and whereas the estates of zamíndárs under engagements with Government are liable to be brought to sale at any time for an arrear in the revenue payable by monthly kists to Government, it has seemed just to allow any zamíndár who may have granted tenures with a stipulation of the right to sell for arrears, the opportunity of availing himself of this means of realizing his dues in the middle of the year, as well as at the close, instead of only at the end of the Bengal year, as heretofore allowed by the Regulations in force; it has further been deemed equitable to extend this rule to all cases in which the right of sale may have been reserved, even though, in conformity with the Regulations heretofore in force, the stipulation for sale contained in the engagements interchanged may have restricted such sale to the case of a demand of rent remaining unpaid at the close of the Bengal year.

It has been likewise deemed advisable to explain and modify some of the existing rules for the collection of rents, with a view to render them more efficacious than at present, as well as to provide against sundry means of evasion now resorted to by defaulters.

The following rules have accordingly been enacted by His Excellency the Most Noble the Governor General in Council, to take effect from the date of

their promulgation throughout the several districts of the Province of Bengal, including Mednípur.

2. It is hereby declared that any leases or engagements for the fixing of rent now in existence, that may have been granted or concluded for a term of years or in perpetuity, by a proprietor under engagements with Government, or other person competent to grant the same, shall be deemed good and valid tenures, according to the terms of the covenants or engagements interchanged, notwithstanding that the same may have been executed before the passing of Regulation V. 1812,[a] and while the rule of section 2, Regulation XLIV. 1793,[b] which limited the period for which it was lawful to grant such engagements to ten years, and declared all that might be entered into for a longer term to be null and void, was in full force and effect; and notwithstanding that the stipulations of the said leases may be in violation of the rule in question:

Leases fixing rent in perpetuity or for more than ten years, valid, though executed while section 2, Regulation XLIV. 1793, was in force.

Provided, however, that nothing herein contained shall be held to exempt any tenures held under engagements from proprietors of estates paying revenue to Government, from the liability to be cancelled on sale of the said estates for arrears of the said revenue, unless especially exempted from such liability by the rule in question, or by any other specific rule of the Regulations in force.

3. *First.*—The tenures known by the name of patní-taluqs, as prescribed in the preamble to this Regulation, shall be deemed to be valid tenures in perpetuity, according to the terms of the engagements under which they are held. They are heritable by their conditions; and it is hereby further declared, that they are capable of being transferred by sale, gift or otherwise, at the discretion of the holder, as well as answerable for his personal debts, and subject to the process of the courts of judicature, in the same manner as other real property.

Patní-tenures declared valid, transferable and answerable for debt.

Second.—Patní taluqdárs are hereby declared to possess the right of letting out the lands composing their taluqs in any manner they may deem most conducive to their interest, and any engagements so entered into by such taluqdárs with others shall be legal and binding between the parties to the same, their heirs and assignees:

Patnídárs' right of underletting.

Provided, however, that no such engagements shall operate to the prejudice of the right of the zamíndár to hold the superior tenure answerable for any arrear of his rent, in the state in which he granted it, and free of all incumbrance resulting from the act of his tenant.

[a] See *supra*, p. 110.

[b] Repealed by Act No. XXIX of 1871.

Patní-tenures not voidable for arrears.

Third.—In case of an arrear occurring upon any tenure of the description alluded to in the first clause of this section, it shall not be liable to be cancelled for the same; but the tenure shall be brought to sale by public auction, and the holder of the tenure will be entitled to any excess in the proceeds of such sale, beyond the amount of the arrear of rent due; subject, however, to the provisions contained in section 17 of this Regulation.

Inferior tenures under similar title-deeds confer similar interest to that provided for patní-taluqs in section 3.

4. If the holder of a patní-taluq shall have underlet in such manner as to have conveyed a similar interest to that enjoyed by himself, as explained in the preamble to this Regulation, the holder of such a tenure shall be deemed to have acquired all the rights and immunities declared in the preceding section to attach to patní-taluqs, in so far as concerns the grantor of such under-tenure.

The same construction shall also hold in the case of patní taluqs of the third or fourth degree.

Zamíndár not to refuse to give effect to transfer;

5. The right of alienation having been declared to vest in the holder of a patní-taluq, it shall not be competent to the zamíndár or other superior to refuse to register, and otherwise to give effect to such alienations, by discharging the party transferring his interest from personal responsibility, and by accepting the engagements of the transferee.

but may demand fee

In conformity, however, with established usage, the zamíndár or other superior shall be entitled to exact a fee upon every such alienation; and the rate of the said fee is hereby fixed at two per cent. on the jama or annual rent of the interest transferred, until the same shall amount to one hundred rupees, which sum shall be the maximum of any fee to be exacted on this account.

and security.

The zamíndár shall also be entitled to demand substantial security from the transferee or purchaser, to the amount of half the jama or yearly rent payable to him from the tenure transferred; the condition of furnishing such security on requisition being understood to be one of the original liabilities of the tenure.

The above rules shall apply equally to the case of a sale made in execution of a decree or judgment of Court, as to all other alienations, but it shall not apply to the case of sale for an arrear in the rent due to the zamíndár or other superior, under the rules hereinafter contained.

The purchaser at such a sale shall be entitled to have his name registered, and to obtain possession without fee, though of course liable to be called on to give security under the conditions of the tenure purchased.

Zamíndár may refuse sanction to transfer, till

6. It shall be competent to the zamíndár or other superior to refuse the registry of any transfer until the fee above stipulated be paid, and until substantial security to the amount specified be tendered and accepted:

fee and security tendered.

provided, however, that if the security tendered by any purchaser or transferee should not be approved by the zamíndár, and the party tendering it shall be dissatisfied with such rejection, he shall be competent to appeal therefrom by petition or common motion in the Civil Court of the district, which authority, if satisfied of the sufficiency of the security tendered, shall issue an injunction on the zamíndár to accept it, and give effect to the transfer without delay.

It is hereby provided, that the rules of this and of the preceding section shall not be held to apply to transfers of any fractional portion of a patní-taluq, nor to any alienation other than of the entire interest; for no apportionment of the zamíndár's reserved rent can be allowed to stand good, unless made under his special sanction.

Upon public sale, if security not tendered within one month, zamíndár may attach.

7. In case of the sale of a patní-tenure in execution of a judgment of Court, if the purchaser do not, within the period of one month from the sale, conform to the rules of section 5 of this Regulation, in order to obtain the transfer of his tenure by the superior to whom the rent fixed upon it is payable, the zamíndár or other superior shall be entitled, of his own authority, to send a sazáwal to attach and hold possession of the tenure, until the forms prescribed be observed.

In case, also, of the sale of a patní-tenure for arrears of the rent due upon it, under the rules of this Regulation, if security be required by the zamíndár, and the purchaser fail to furnish the same within one month of the date of sale, the zamíndár shall similarly be entitled to send a sazáwal to attach and hold possession of the interest which may have passed on the sale, to the exclusion of the purchaser, until the prescribed security be given.

Attachment to have effect of trust.

Attachments made under this section shall be regarded as trusts for the benefit and at the risk of the purchasers: consequently, after deducting the rent due and the expense of attaching, any surplus that may be yielded by the collections shall be held in deposit for such purchaser: but if the collections for the time fall short of the rent, the tenure and person of the proprietor shall be liable in the same manner as if no attachment had been made, and the accounts produced by the zamíndár or other superior making the attachment shall be received as *primâ facie* evidence to warrant process for an arrear so accruing.

Zamíndárs allowed sales of tenures, in which right to sell for arrears is reserved.

8. *First.*—Zamíndárs, that is, proprietors under direct engagements with the Government, shall be entitled to apply in the manner following for periodical sales of any tenures upon which the right of selling or bringing to sale for an arrear of rent may have been specially reserved by stipulation in the engagements interchanged on the creation of the tenure.

The exercise of this power shall not be confined to cases in which the stipulation for sale may have been unrestricted in regard to time, but shall apply equally to tenures held under engagements stipulating merely for a sale at the end of the year, in conformity with the practice heretofore allowed by the Regulations in force.[a]

First sale to be applied for on first of Baisákh.

Second.—On the first day of Baisákh, that is, at the commencement of the following year from that of which the rent is due, the zamíndár shall present a petition to the Collector, containing a specification of any balances that may be due to him on account of the expired year, from all or any taluqdárs or other holders of an interest of the nature described in the preceding clause of this section.

The same shall then be stuck up in some conspicuous part of the kachahrí, with a notice that if the amount claimed be not paid before the first of Jeth following, the tenures of the defaulters will on that day be sold by public sale in liquidation.

Should, however, the first of Jeth fall on a Sunday or holiday, the next subsequent day, not a holiday, shall be selected instead; a similar notice shall be stuck up at the sadr kachahrí of the zamíndár himself, and a copy or extract of such part of the notice as may apply to the individual case shall be by him sent to be similarly published at the kachahrí or at the principal town or village upon the land of the defaulter.

The zamíndár shall be exclusively answerable for the observance of the forms above prescribed, and the notice required to be sent into the mufassal shall be served by a single peon, who shall bring back the receipt of the defaulter, or of his manager, for the same; or in the event of inability to procure this, the signatures of three substantial persons residing in the neighbourhood, in attestation of the notice having been brought and published on the spot.

If it shall appear from the tenor of the receipt or attestation in question that the notice has been published at any time previous to the fifteenth of the month of Baisákh, it shall be a sufficient warrant for the sale to proceed upon the day appointed.

In case the people of the village should object or refuse to sign their names in attestation, the peon shall go to the kachahrí of the nearest munsif, or if there should be no munsif, to the nearest thánáa, and there make voluntary oath of the same having been duly published; certificate to which effect shall be signed and sealed by the said officers and delivered to the peon.[b]

[a] See Regulation I of 1820, and Bengal Act No. VIII of 1865, section 3.

[b] See Act No. XXXXIII of 1850.

Third.—On the first day of Kártik, in the middle of the year, the zamíndár shall be at liberty to present a similar petition, with a statement of any balances that may be due on account of the rent of the current year, up to the end of the month of Ásin, and to cause similar publication to be made of a sale of the tenures of defaulters, to take place on the first of Aghan, unless the whole of the advertised balance shall be paid before the date in question, or so much of it as shall reduce the arrear, including any intermediate demand for the month of Kártik, to less than one-fourth or a four-anna proportion of the total demand of the zamíndár, according to the kistbandí, calculated from the commencement of the year to the last day of Kártik. Mid-year sale to be applied for on first of Kártik.

9. All sales of saleable tenures applied for under the rules of this Regulation shall be made in public kachahrí; the land shall be sold to the highest bidder, and every one not the actual defaulter shall be free to bid, not excepting the person in satisfaction of whose demand the sale may be made, nor the under-tenants of the defaulter; fifteen per cent. of the purchase-money shall be paid immediately the lot is knocked down, and the officer conducting the sale shall be competent to refuse to accept a bid, or to knock down a lot to any bidder, unless he has assurance to his satisfaction that the amount required to be deposited is in hand for the purpose, or will be produced within two hours. Sales how conducted.

If the fifteen per cent. be not paid in cash, or in notes of the Bank of Bengal, within two hours of the sale, or an equivalent amount in Government securities be not lodged, the lot shall be resold on the same day, and if the remainder of the purchase-money be not paid by noon of the eighth day, notice shall be given of resale on the following day, that is, on the ninth from the first sale, by proclaiming the same by beat of drum through the bázár of the sadr station of the zila, after which the lot shall be resold at the appointed time at the risk of the first purchaser, who shall forfeit the advance of fifteen per cent. already made, and be further answerable for any sum in which the proceeds of the second sale may fall short of the antecedent one; such deficiency to be levied by the process for the execution of decrees of the civil Courts.

10. At the time of the sale, the notice previously stuck up in the kachahrí shall be taken down, and the lots be called up successively in the order in which they may be found in that notice. Forms to be observed in selling.

A person shall attend on the part of the zamíndár, with a particular statement of the payments made up to the day of sale, on account of the balance of each advertised lot, together with the receipt for, or certificate of, the notice directed to be published in the mufassal, nor shall any lot be put up

to sale until the statement produced shall have been inspected, and the existence of a balance for the year ascertained therefrom, nor until the receipt for the notice shall have been read; the observance of which forms shall be recorded in a separate rúbakárí to be held upon each lot sold.

If the sale be of the description provided for in the third clause of section 8 of this Regulation, the kistbandí of the defaulter shall likewise be produced, in order that it may be seen that the balance remaining unpaid exceeds a four-anna proportion of the demand up to the date of sale; nor shall the sale take place unless this be ascertained.

The zamíndár shall be exclusively responsible for the correctness and authenticity of the papers to be thus exhibited, nor shall the public officer making the sale be answerable in any respect, except for its fairness and publicity, and for the observance of the rules prescribed for his guidance in this Regulation.

Tenure to be sold free of incumbrance by act of defaulter.

11. *First.*—It is hereby declared, that any taluq or saleable tenure that may be disposed of at a public sale, under the rules of this Regulation, for arrears of rent due on account of it, is sold free of all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by a stipulation to that effect in the written engagements under which the said taluq may have been held.

No transfer by sale, gift or otherwise, no mortgage or other limited assignment, shall be permitted to bar the indefeasible right of the zamíndár to hold the tenure of his creation answerable, in the state in which he created it, for the rent, which is in fact his reserved property in the tenure, except the transfer or assignment should have been made with a condition to that effect, under express authority obtained from such zamíndár.

No underlease to stand after sale.

Second.—In like manner, on sale of a taluq for arrears, all leases originating with the holder of the former tenure, if creative of a middle interest between the resident cultivators and the late proprietor, must be considered to be cancelled, except the authority to grant them should have been specially transferred; the possessors of such interests must consequently lose the right to hold possession of the land and to collect the rents of the raiyats; this having been enjoyed merely in consequence of the defaulter's assignment of a certain portion of his own interest, the whole of which was liable for the rent.

Exception in favour of *bond fide* engagements with raiyats.

Third.—Provided, nevertheless, that nothing herein contained shall be construed to entitle the purchaser of a taluq or other saleable tenure intermediate between the zamíndár and actual cultivators, to eject a khúdkásht raiyat or resident and hereditary cultivator, nor to cancel *bond fide* engagements

made with such tenants by the late incumbent or his representative, except it be proved in a regular suit, to be brought by such purchaser, for the adjustment of his rent, that a higher rate would have been demandable at the time such engagements were contracted by his predecessor.

Above rule to take effect retrospectively.

12. The rules of the preceding section being declaratory of the principle to be observed on all occasions wherein saleable tenures are made responsible for the zamíndár's reserved rent, will equally apply to the case of taluqs heretofore sold, as to those that may be sold henceforward, if the sale shall have been fair, and the process observed in conducting it shall have been that recognized and in use in the district at the time of selling.

Proviso.

Nothing, however, herein contained shall operate to the prejudice of any agreement, express or implied, now subsisting between the purchaser of a taluq and the lessees of his predecessor.

But not to apply to private transfers.

Neither shall the rule for the fall of under-tenures be considered to apply to any private transfer by a taluqdár of his own interest, nor to a public sale in execution of a decree, nor to the case of a relinquishment by the taluqdár in favour of the zamíndár, nor to any act originating with the former holder, other than default as aforesaid: all such operations involve only a transfer of the tenure in the state in which it may be held at the time, and the new incumbent succeeds to no more than the reserved rights of the former tenant, such as they may be, and is of course subject to any restriction put upon the tenure by his act.

Reason for allowing under-tenants means of staying sale.

13. *First.*—With reference to the injury that may be brought upon the holder of a taluq of the second degree by the operation of the preceding rules, in case the proprietor of the superior tenure purposely withholds the rent due from himself to the zamíndár, after having realized his own dues from the inferior tenantry, it is deemed necessary to allow such taluqdárs the means of saving their tenures from the ruin that must attend such a sale; and the following rules have accordingly been enacted for this purpose.

How under-tenants may stay sale.

Second.—Whenever the tenure of a taluqdár of the first degree may be advertised for sale in the manner required by the second and third clauses of section 8 of this Regulation, for arrears of rent due to the zamíndár, the taluqdárs of the second degree, or any number of them, shall be entitled to stay the final sale, by paying into Court the amount of balance that may be declared due by the person attending on the part of the zamíndár on the day appointed for sale; in like manner they shall be entitled to lodge money antecedently, for the purpose of eventually answering any demand that may remain due on the day fixed for the sale, and should the amount lodged be sufficient, the sale shall not proceed, but after making good to the zamíndár the amount of his demand, any excess shall be paid back to the person or persons who may have lodged it.

Procedure in case of amount lodged being rent due from under-tenant;

Third.—If the amount so lodged shall be rent due by the inferior taluqdár to the holder of the advertised tenure, the same shall be stated at the time of making the deposit, and the amount shall be carried to the account of the tenant or tenants lodging it, and be deducted from any claim of rent that may at the time be pending, or be thereafter brought forward against him or them by the proprietor of the advertised tenure, on account of the year or months for which the notice of sale may have been published.

and in case of amount lodged being advance from private funds.

Fourth.—If the person or persons making such a deposit, in order to stay the sale of the superior tenure, shall have already paid the whole of the rent due from himself or themselves, so that the amount lodged is an advance from private funds, and not a disbursement on account of the said rent, such deposit shall not be carried to credit in, or set against, future demands for rent, but shall be considered as a loan made to the proprietor of the tenure preserved from sale by such means, and the taluq so preserved shall be the security to the person or persons making the advance, who shall be considered to have a lien thereupon, in the same manner as if the loan had been made upon mortgage; and he or they shall be entitled, on applying for the same, to obtain immediate possession of the tenure of the defaulter, in order to recover the amount so advanced from any profits belonging thereto.

If the defaulter shall desire to recover his tenure from the hands of the person or persons who, by making the advance, may have acquired such an interest therein, and entered on possession in consequence, he shall not be entitled to do so, except upon repayment of the entire sum advanced, with interest at the rate of twelve per cent. per annum up to the date of possession having been given as above, or upon exhibiting proof, in a regular suit to be instituted for the purpose, that the full amount so advanced, with interest, has been realized from the usufruct of the tenure.[a]

Sale not to be stayed unless arrear claimed be lodged.

14. *First.*—Should the balance claimed by a zamíndár on account of the rent of any under-tenure remain unpaid upon the day fixed for the sale of the tenure, the sale shall be made without reserve, in the manner provided for in sections 9 and 10 of this Regulation; nor shall it be stayed or postponed on any account, unless the amount of the demand be lodged.

But suit to lie for its reversal.

It shall, however, be competent to any party desirous of contesting the right of the zamíndár to make the sale, whether on the ground of there having been no balance due, or on any other ground, to sue the zamíndár for the reversal of the same, and upon establishing a sufficient plea, to obtain a decree with full costs and damages.

The purchaser shall be made a party in such suits, and upon decree passing

[a] See Bengal Act No. VIII of 1865, section 6.

for reversal of the sale, the Court shall be careful to indemnify him against all loss, at the charge of the zamíndár or person at whose suit the sale may have been made.

Defaulter may apply for summary investigation.

Second.—In cases also in which a taluqdár may contest the zamíndár's demand of any arrear, as specified in the notice advertised, such taluqdár shall be competent to apply for a summary investigation at any time within the period of notice; the zamíndár shall then be called upon to furnish his kabúliyat and other proofs at the shortest convenient notice, in order that the award may, if possible, be made before the day appointed for sale.

Sale not to be stayed unless amount claimed be deposited.

Such award, if so made, will of course regulate the ulterior process; but if the case be still pending, the lot shall be called up in its turn, notwithstanding the suit; and if the zamíndár or his agent in attendance insist on the demand, the sale shall be made on his responsibility, nor shall it be stayed, or the summary suit be allowed to proceed, unless the amount claimed be lodged in cash, or in Government securities, or in notes of the Bank of Bengal, by the taluqdár contesting the demand; and if such deposit be not made, the alleged defaulter will have no remedy, but by a regular action for damages and for a reversal of the sale.[a]

Delivery of possession to purchaser.

15. *First.*—So soon as the entire amount of the purchase-money shall have been paid in by the purchaser at any sale made under this Regulation, such purchaser shall receive from the officers conducting the sale a certificate of such payment.

The purchaser shall then proceed with the certificate in question to procure a transfer to his name in the kachahrí of the zamíndár, and upon furnishing security, if required, to the extent of half the jama or annual rent, he shall receive the usual 'amaldastak' or order for possession, together with the notice to the raiyats and others to attend and pay their rents henceforward to him.

The zamíndár shall also be bound to furnish access to any papers connected with the tenure purchased, that may be forthcoming in his kachahrí; and should he in any manner delay the transfer in his office, or refuse to give the orders for possession, notwithstanding that good and substantial security shall have been furnished or tendered on requisition, the new purchaser shall be entitled to apply direct to the Court, and he shall receive the orders for possession, and shall be put in possession, of the lands by means of the názir, in the same manner as possession is obtained under a decree of Court; provided, however, that if the delay be on account of the zamíndár's contesting the sufficiency of the security tendered, the rule contained in section 6 of this Regulation shall be observed.

[a] See Regulation VII of 1832, section 16, clause 3.

Procedure in case of opposition to purchaser.

Second.—When the new purchaser shall proceed to take possession of the lands of his purchase, if the late incumbent himself, or the holders of tenures or assignments derived from the late incumbent, and intermediate between him and the actual cultivators, shall attempt to offer opposition, or to interfere with the collections of the new purchaser, from the lands composing his purchase, the latter shall be at liberty to apply immediately to the Civil Court for the aid of the public officers in obtaining possession of his just rights.

A proclamation shall then issue under the seal of the Court and signature of the Judge, declaring that the new incumbent having, by purchase at a sale for arrears of rent due to the zamíndár, acquired the entire rights and privileges attaching to the tenure of the late taluqdár, in the state in which it was originally derived by him from the zamíndár, he alone will be recognized as entitled to make the zamíndárí collections in the mufassal, and no payments made to any other individual will on any account be credited to the raiyats or others in any suit for rent or on any other occasion whatever when the same may be pleaded.

Procedure in case of continued opposition.

Third.—Should the late incumbent or his late under-tenants continue to oppose the entry of the new purchaser, notwithstanding the issuing of such a proclamation, or should there be reason to apprehend a breach of the peace on the part of any one, the aid of the Police-officers and of all other public officers who may be at hand and capable of affording assistance, shall be given to the new purchaser, on his presenting a written application for the same; and in the event of any affray or breach of the peace occurring, the entire responsibility shall rest with the party opposing the lawful attempt of the purchaser to assume his rights.

16.—[*Repealed by Bengal Act No. VIII of 1865.*]

Disposal of proceeds of sales.

17. *First.*—The following rules have been enacted for the disposal of the proceeds of any sale made under the rules of this Regulation.

Deduction on account of Government.

Second.—One per cent. shall first be deducted from the nett proceeds realized, and shall be carried to the account of Government, for the purpose of meeting the expense of any extra establishments which it may be necessary to maintain for carrying into effect the provisions of this Regulation.

Payment to zamíndárs.

Third.—The balance on account of which the sale may have been made shall next be made good in full (with interest and all charges incurred in bringing the taluq to sale) to the zamíndár or other person to whom the same may be due; provided, however, that no former balances, beyond those of the current year (or of that immediately expired, if the sale be at the commencement of the following year), shall be included in the demand to be thus satisfied.

Such antecedent balances, if the zamíndár shall have omitted to avail himself of the process within his reach for having them satisfied at the time, will

have become in fact mere personal debts of the individual taluqdár, and must be recovered in the same way as other debts by a regular suit in the Court.

Fourth.—Any excess that may remain after satisfying the demand of the zamíndár, in the manner above described, shall be forthwith sent by the officer conducting the sale to the treasury of the Collector or Assistant Collector of the district, to be there held in deposit to answer the claims of the taluqdárs of the second degree, or of others who, by assignment of the defaulter, may be at the time in possession of a valuable interest on the land composing the taluq sold, or on any part of it. Disposal of remainder.

Fifth.—It shall be competent to any one conceiving himself to possess such an interest to bring forward his claim to the price he may have paid for the same, or for a just compensation for the loss sustained by him in consequence of the sale, by instituting a regular suit at any time within two months from the date of sale. Under-tenants free to prosecute for price of their interest or compensation.

If the Court shall, on investigation, consider the plaintiff's claim to be an equitable one, the Court will award to the claimant either the price he may have originally paid, or the value of the interest at the time of sale, or any other amount that may be deemed just and equitable under all the circumstances.

If there be more claimants than one, payment shall not be made from the deposit, until the whole of the claims be settled; and in case the value assessed upon the whole should exceed the amount in deposit, such amount shall be divided proportionately, and the remainder stand as a personal debt against the defaulter, to be realized from him by the usual process for the execution of decrees.

Sixth.—Provided, however, that no taluqdár of the second degree or other possessor of an assigned interest upon the land of the tenure sold, who may be holding under a stipulation for the payment of an annual amount in the way of rent, shall be entitled to recover compensation for the loss of such tenure or assignment upon its becoming cancelled by sale of the superior taluq, except after exhibiting proof that the whole amount of the rent demandable from himself has been paid or lodged for the purpose prior to the date of sale. Suit not to lie if under-tenant be himself in arrear at time of sale.

Seventh.—Should no claims upon the purchase-money of a taluq sold as above be brought forward by any under-tenants or assignees, within the period of two months from the date of sale, or should the amount claimed by those who may have sued not equal the entire deposit, the defaulter whose tenure may have been sold shall be at liberty to petition the Court for the amount so held in deposit, or for the excess thereof, as the case may be, and he shall receive a certificate under the seal of the Court, of there being no When defaulter to receive excess unclaimed.

claims to afford ground of detention for the whole or any part of the deposit; and upon exhibiting such certificate to the Collector, the amount set free thereby shall be paid to his receipt.

In the same manner, upon executing a decree passed in favour of any under-tenants or assignees, they shall receive certificates under the seal of the Court, declaring the amount adjudged to them out of the deposit; and upon exhibiting these certificates, the amount shall be paid severally to their receipts by the Collector.

Substitution of Government securities for cash in deposit.

Eighth.—It shall be competent to any party interested in a deposit, to withdraw the whole or any part thereof, on substituting Government securities, bearing interest, in lieu of the money so held in deposit; such securities to be taken at the rate of discount or premium of the day, as shown by the Government Gazette last received.

REGULATION I OF 1820.

Passed on the 11th of January 1820.

A Regulation for providing that all sales of certain taluqs made answerable by sale for arrears of the zamíndár's rent, shall be conducted in the mode prescribed by Regulation VIII. 1819, for the sales therein described.

Preamble.

1. WHEREAS it has been omitted to provide in the rules of Regulation VIII. 1819,[a] whether, in case the proprietor of an estate paying revenue to Government should desire to bring to sale a saleable tenure of the nature defined in clause first, section 8, of that Regulation, for the realization of arrears of rent due thereupon, by any legal process other than that prescribed by the second and third clauses of the said section, such sale should be made in the public manner provided for the periodical sales therein described;

and whereas it is consonant with justice, and was intended by the said Regulation, that, in every case of the sale of such tenures for arrears of the zamíndár's rent, the sale should be public, for the security of the interests of the owner of the tenure sold; which object can in no manner be duly secured except the sales to be so made be conducted by an officer of Government in the same manner as the periodical sales provided for by section 8 of the said Regulation:

the following additional rule has accordingly been passed by the Governor General in Council, to take effect from the date of its promulgation, within the several districts of Bengal, including Mednípur.

[a] See *supra*, p. 158.

Rules of Reg. VIII. 1819, for periodical sales for zamindár's arrears of rent, extended to other sales for rent.

2.—*First.* Whenever the proprietor of an estate paying revenue to Government shall desire to cause any tenure of the nature of those described in clause first, section 8, Regulation VIII. 1819,[a] to be sold for arrears of rent due to him on account thereof, and shall, under any summary process authorized by the general Regulations, have acquired the right of causing such sale to be made, the same shall be conducted, after application from the zamíndár, by the Register or acting Register of the Zila or City Court, or, in his absence, by the person in charge of the office of Judge of the district, in the mode prescribed by Regulation VIII above quoted, for periodical sales.

Notice by proclamation.

Second.—Ten days' notice shall be given before proceeding to sale, by proclamation to be stuck up at the kachahrí of the Court and at that of the Collector of the district.

Rules extended to sales hereunder.

Third.—The rules of sections 9, 11, 13, 15 and 17, Regulation VIII. 1819, are extended to all sales made after the manner herein provided.

REGULATION IV OF 1821.

Passed on the 19th of January 1821.

A Regulation for authorizing a Collector of land-revenue or other officer employed in the management or superintendence of any branch of the territorial revenues, to exercise, in certain cases, the powers of Magistrate or joint Magistrate, and for authorizing a Magistrate or joint Magistrate, or Assistant to a Magistrate, to exercise in certain cases the powers of a Collector of land-revenue or of any other officer employed in the management or superintendence of any branch of the territorial revenue: Also, for explaining the duties of an Assistant Collector of revenue, and for defining the duties and powers vested in Assistant Collectors or other officers appointed to the charge of the revenues of parganas or other local divisions, or employed in the performance of any portion of the functions ordinarily belonging to the Collectors of land-revenue.[b]

Preamble.

1. WHEREAS it is expedient to explain the duties which may be performed

[a] See *supra*, p. 158.

[b] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

by the Assistants to the Collectors of revenue, and to define the duties and powers vested in Assistant Collectors or other officers, when appointed to the charge of the revenues of parganas or other local divisions, or when employed in the performance of any portion of the functions ordinarily belonging to Collectors of the land-revenue; the following rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William.

2, 3.—[*Repealed by Act No. XII of 1873.*]

4, 5.—[*Repealed by Act No. XII of 1876.*]

6. *First.*—[*Repealed by Act No. XII of 1876.*]

Second.—[*Repealed by Act No. XVI of 1874.*]

Institution of suit in Zila Court for recovery of public revenue.

7. In the institution of suits for the recovery of the public revenue, or in any case in which the institution of a suit by the Collector in the Zila Courts is authorized or directed by the Regulations, a Magistrate or joint Magistrate or Assistant to a Magistrate, employed in the collection of the revenue, not being himself in charge of the office of Judge of a Zila Court, shall proceed according to the Regulations already in force for the guidance of the Collectors under similar circumstances.

Power to alter limits of Collectorships, and number of officers employed as Collectors.

8. *First.*—It is hereby declared and enacted, that it is and shall be lawful for the Governor General in Council to cause such alterations to be made in the limits of the several Collectorships, and in the number of the officers employed as Collectors of land-revenue, as may from time to time appear expedient, as well as to vest such officers, being covenanted servants, with authority to exercise the whole or any part of the functions ordinarily exercised by Collectors of land-revenue in such mahál or mahāls belonging to such district or districts as may from time to time be deemed expedient; and any officers so employed shall perform their prescribed duties in the same manner, and subject to the same condition and liabilities, as attach to Collectors of land-revenue in regard to such duties.

Power to depute subordinate officer to perform Collector's duties.

Second.—It shall also be competent to the Board of Revenue or other Authority exercising the powers of that Board to depute any of the officers subordinate to their authority to exercise and perform all or any of the powers and duties ordinarily vested in Collectors of land-revenue within such local limits as they may judge expedient;

provided, however, that in all such cases the Board or other Authority aforesaid shall, on the day in which they may depute any officer as aforesaid or as soon after as practicable, report their having done so for the information and orders of the Governor General in Council.

Power of Collectors to delegate part

Third.—The Collectors of revenue are hereby authorized, with the sanction of the Board of Revenue, to delegate to their Assistants any part of their pre-

scribed duties, which, from the extent of their general business or other cause, they may be unable to give due attention to themselves; of their duties to their Assistants.

provided, always, that in the event of a Collector deputing his Assistant to make local inquiries, or for any other purpose connected with the collection of the public revenue, he shall immediately report the same for the information and orders of the Board of Revenue to which he may be subordinate.

Fourth.—[*Repealed by Act No. XII of 1873.*]

Fifth.—Assistants or other officers exercising the powers of Collectors of revenue, or any portion thereof, under the provisions of this Regulation, shall be guided in every respect by the Regulations which have been, or may be, enacted for the management and collection of the revenue, as far as the same may be applicable to the duties committed to them respectively, and shall be considered responsible for the due performance of the duties entrusted to them, and shall be amenable to the civil courts of judicature for any acts done by them in their official capacity, in opposition to the Regulations, in the same manner, and under the same rules, as the Collectors of revenue. Assistants, &c., to be guided by Regulations, responsible for performance of duties, and amenable to Civil Courts.

REGULATION III OF 1822.

Passed on the 19th of March 1822.

A Regulation for modifying the constitution and altering the jurisdiction of the several Boards vested with the superintendence of the land-revenue, in the territories belonging to the Presidency of Fort William.[a]

1. WHEREAS the superintendence of the Dehli territory has recently been vested in the Board of Commissioners for the Ceded and Conquered Provinces, and for this and other causes it has become necessary to relieve the said Board from the charge of a portion of the districts now under their control: and whereas it is also desirable to modify the constitution and alter the jurisdiction of the several Boards intrusted with the management of the land-revenue, the following rules have been enacted, to be in force from the date of their promulgation. Preamble

2, 3.—[*Repealed by Act No. XVI of 1874.*]

4. *First.*—The said Boards shall each of them consist of such number of members as the Governor General in Council may from time to time appoint. Power to appoint members.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

Second, Third.—[*Repealed by Act No. XVI of 1874.*]

Power to authorize single member to exercise duties of Board,

5. *First.*—It shall be competent to the Governor General in Council, by an order in Council, to authorize a single member of any of the said Boards to exercise, either generally or locally, all the duties, powers and authority which are vested in the Board collectively, whenever circumstances may render such an arrangement desirable.

and several members separately to exercise part of duties.

It shall further be competent to the Governor General in Council similarly to authorize the several members of the said Board separately to exercise at the same time, and within the same limits, such part of the said duties, powers and authority as it may from time to time be judged proper to assign to each respectively, whenever, for the greater dispatch of business or other cause, it may appear advisable to divide the business of the Board, or to assign any special duty to any member separately:

provided, however, that if a member exercising singly, as above, the duties, powers and authority of the Board, or any part thereof, shall in any case be of opinion that any decision or order of a Collector ought to be reversed or altered, he shall not pass any final order on the case without the concurrence of one or more of the other members, unless otherwise specially directed and authorized by Government:

provided, further, that it shall not be competent to a single member of a Board to reverse or alter a decree or order passed by any other member:

provided, also, that no settlement of the land-revenue, whether in perpetuity or for a term of years, shall be, or be held, final and binding upon Government, unless the same shall have been formally confirmed by the Governor General in Council.

Procedure where difference of opinion arises.

Second.—Whenever two members of a Board shall jointly or separately have considered any question, if a difference of opinion shall arise between them, the decision of the question shall be postponed, and the case shall be referred to a third member, permanent or provisional, in such mode as may from time to time be directed by Government, and shall be determined according to the majority of voices.

Appointment, removal or punishment of Collector's Native officers by single member.

Third.—In regard to the appointment, removal or punishment of the Native officers of Collectors of land-revenue or other functionaries subordinate to the Boards, a single member vested as above with authority separately to exercise the powers of the Board or any part thereof, shall, within the limits of his authority, be competent to proceed in the same manner as the Board collectively are authorized to proceed:

Proviso.

provided that, in any such case, if a member of the Board acting singly shall differ in opinion from a Collector or other functionary immediately subordinate to them, he shall not, unless otherwise specially authorized by Gov-

ernment, pass any final order without the concurrence of one or more members of the Board.

Fourth.—No final orders regarding the appointment, removal or punishment of officers belonging or immediately subordinate to the Board, shall (unless otherwise specially directed by the Governor General in Council) be issued without the concurrent judgment of two or more members.

Two members necessary to appoint, remove or punish officers of Board.

Fifth.—Single members exercising separate authority as above shall be competent to suspend any officer under their authority, in like manner as the Board collectively may do; but all orders regarding the suspension of any such officer, passed by a single member, unless in confirmation of an order or recommendation of a Collector or other intermediate Authority, or unless specially authorized by the Governor General in Council, shall be reported without loss of time to some other member, and shall be liable to be set aside by the decision of a majority of the Board.

Single member may suspend any officer.

Sixth.—The Boards are authorized to review, rescind, alter or confirm any order and decision passed by them collectively, or by any member exercising, as above, separate authority, if an application to that effect be made to them by any party interested in the case, within the period of three months from the date on which the order or decision may have been passed, or good and sufficient cause shown for a further delay, and if, from the documents exhibited, the case shall appear to merit further investigation.

Board may review, &c., their decisions.

But no order or decision passed by a single member exercising separate authority shall be reversed, altered or stayed, excepting on the concurrent judgment of two or more members.

Seventh.—To provide for cases wherein the members of the Board shall not agree in opinion as to the decision or order to be passed in any case, and wherein the voices on each side may be equal, it shall be competent to the Governor General in Council to appoint one or more temporary or provisional members, who shall, in regard to the investigation and determination of the questions so in dispute, have and exercise the same powers and authority as if they ordinarily belonged to the Board; and if a difference of opinion as aforesaid shall arise between two members of the Board holding joint sittings at any place where a temporary or provisional member may be stationed, the other permanent member or members of the Board being absent, it shall and may be lawful for them, without reference to such absent member, to submit the question in dispute to the provisional member, and to issue orders in conformity with the opinion which he may support.

In case members equally divided in opinion.

REGULATION VII OF 1822.

Passed on the 8th of August 1822.

A Regulation for declaring the principles according to which the settlement of the land-revenue in the Ceded and Conquered Provinces, including Katak, Paṭáspur and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising or superintending settlements; for continuing, with certain exceptions, the existing leases within the said Provinces for a further term of five years; for defining, settling and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue-authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent and produce of land.

Preamble.

1. WHEREAS the existing settlement of the land-revenue in the Ceded Provinces will expire with the present Faslí year, and it has therefore become necessary to declare and enact the principles and rules according to which the demand of the State is thereafter to be regulated, and the manner in which future settlements and revisions of settlements are to be conducted:

and whereas a moderate assessment being equally conducive to the true interests of Government and to the well being of its subjects, it is the wish and intention of Government, that in revising the existing settlement the efforts of the Revenue-officers should be chiefly directed, not to any general and extensive enhancement of the jama, but to the objects of equalizing the public burthens, and of ascertaining, settling and recording the rights, interests, privileges and properties of all persons and classes, owning, occupying, managing or cultivating the land, or gathering or disposing of its produce, or collecting or appropriating the rent or revenue payable on account of land, or the produce of land, or paying or receiving any cesses, contributions or perquisites to or from any persons resident in, or owning, occupying or holding parcel of, any village or mahál:

and whereas, with these views and intentions, the Governor General in Council has considered it to be expedient and proper, with the exception hereinafter specified, to continue the existing assessment in all cases in which the settlement has been formed with zamíndárs or other persons acknowledged as

proprietors or possessors of a permanent interest in the maháls for which they may have engaged, until a new settlement can be made, combining, with the revision of the Government jama and the deliberate investigation of the facts by the determination of which its amount must be regulated, a full inquiry into, and a careful settlement of, the rights and interests of all classes connected with the land:

and whereas the same principles are applicable to the district of Katak, the pargana of Paṭáspur and its dependencies, of which the settlement will expire with the present 'Amali' year:

and whereas it has appeared expedient to make special provision for the early settlement of the district of Gorakhpur, the chaklá of Azamgarh, the pargana of Paṭáspur and its dependencies:

and whereas it is also advisable to provide for the revision of the settlement of the Conquered Provinces, and of the Province of Bundelkhand, pending the continuance of the existing leases:

and whereas it is the desire of Government that the proceedings held, and the records formed, by the Collectors when making settlements or otherwise specially employed in conducting inquiries of the above nature, should be such as that all demands, claims and suits may be adjudged and determined according to the facts therein stated, until the same shall have been formally altered, or it shall be shown, by the result of a full investigation in a regular suit, that the proceeding or record of the Collector was erroneous or incomplete:

and whereas it is necessary to declare and define the powers and authority to be vested in Collectors in the conduct of the said inquiries, and the adjustment of the differences arising out of or made known by them:

and whereas it further appears advisable that the Revenue-officers should in certain cases be vested with authority judicially to receive, hear, investigate and determine suits, claims and demands of the above description:

and whereas it appears to be expedient to declare and explain the views and intentions of Government relative to the rights to be enjoyed and exercised by the sadr málguzárs or persons admitted to engage for the payment of the Government revenue; and by persons collecting the rents of the land or revenue of Government, without being subject to the payment of any portion of it to the public treasury, such as jágírdárs and other owners or managers of lákhiráj lands; and it is particularly necessary, in the case of estates held in pattídárí or bhaiyáchárá tenure, to make further provision for protecting the sharers who have not been admitted to engagements with Government against

the encroachments of the sadr málguzár, and likewise to secure the latter against the consequences of the embezzlement or misappropriation by the former of the funds whence the Government revenue ought to be discharged.

For the purposes and objects above specified, the following rules have been enacted, to be in force from the date of their promulgation throughout the Ceded and Conquered Provinces, in the district of Katak, the pargana of Paṭáspur and its dependencies.

2. *First, second, third, fourth and fifth.*—[*Repealed by Act No. XVI of 1874.*]

General rule relative to zamíndárs holding on after expiration of their leases.

Sixth.—If any zamíndár or other málguzár as aforesaid, who may now or hereafter be under engagement for the payment of the revenue demandable by Government on account of any mahál, shall be allowed by the Revenue-authorities to continue in the management of such mahál after the expiration of such engagement, and shall do or direct any act relative to the cultivation or management of such mahál, or the settlement, assessment or collection of the rents of such mahál, in or on account of any year subsequent to the term of such engagement, such zamíndár or other málguzár aforesaid shall be held to be responsible on account of such year for the same revenue as may have been demandable from him for the year preceding, unless otherwise specially agreed upon:

provided, further, that it shall be competent for Collectors or other officers exercising the power of Collectors, with the sanction of the Board or Commissioner to whom they may be subordinate, at any time, not being more than six months previous to the expiration of a settlement, to call upon the zamíndárs or other málguzárs as aforesaid to declare whether or not they are willing to continue their engagements for the ensuing year; and if such zamíndárs or other málguzárs shall not forthwith notify their refusal to do so, they shall be held to have agreed to such an extension of their leases at the existing assessment, and so on, from year to year, as aforesaid.

Zamíndárs or other málguzárs who may be allowed to hold on from year to year, shall not be chargeable with any additional revenue on account of any year, unless the Collector or other officer exercising the powers of Collector shall notify his intention to revise the assessment on or before the commencement of such year, unless where otherwise specially provided.[a]

Settlements how made.

3. With respect to estates which are at present let to farm, a settlement thereof shall be made on the expiration of the existing leases for such a period as the Governor General in Council may direct.

[a] See Regulation IX of 1825.

A preference shall be given to the zamíndárs or other persons possessing a permanent property in the mahál, if willing to engage for the payment of the public revenue on reasonable terms:

provided, also, that in cases wherein such mahál may be let in farm, the term of the lease granted to the farmers shall not exceed twelve years.

The above rules shall likewise be applicable to estates now held khás.

So in any case wherein the zamíndárs and other proprietors may refuse to continue their existing engagements, or to enter into new engagements on equitable terms, it shall be competent to the Revenue-authorities to let the lands in farm for such period, not exceeding twelve years, as the Governor General in Council shall appoint, or to assume the direct management of them, and to retain them under khás management during the period aforesaid or such shorter period as may be judged proper:

provided, further, that if in any case it shall appear to the Revenue-authorities that the continuance or admission of any Rájá, zamíndár, taluqdár or other person who may have engaged, or may claim to engage, for any mahál or mahál, in or to the management of such mahál or mahál, would endanger the public tranquillity or otherwise be seriously detrimental, it shall be their duty to report the circumstance to Government, and it shall be competent to the Governor General in Council, by an order in Council, to cause such mahál or mahál to be held khás or let in farm, for such term as may appear expedient and proper, not exceeding the period above specified.[a]

Admission of particular persons to engage for payment of revenue, not to bar Revenue-officers from interfering to adjust rights of other persons or classes.

4. In admitting particular parties to engage, it was in no degree the intention of Government to compromise private rights or privileges, or to vest the sadr málguzárs with any rights not previously possessed by them, excepting in so far as their interest in the land for which they may have engaged might be improved by the limitation of the Government demand, or otherwise by the resignation in their favour of rights previously vested in Government itself, or as it may have been found necessary, with a view to the punctual realization of the public dues, to vest the sadr málguzár, by special Regulation, with authority of distraint, or other powers of coercion over the under-tenants.

On the contrary, it is the anxious desire of Government, and the bounden duty of its officers, to secure every one in the possession of the rights and privileges which he may lawfully possess or be entitled to possess.

In pursuance of this principle, it is hereby declared and enacted, that nothing in the above provisions for extending the existing leases, or in the stipulations of the existing settlements, do or shall be construed to bar the

[a] As to extension of sections 3 to 33, see Regulation IX of 1825.

Revenue-officers, duly empowered in that behalf, from interfering to adjust the respective rights of the sadr málguzárs and their under-tenants; nor shall any claims to a remission or abatement of revenue be admitted on the ground of any decision or order passed in that behalf; but if such decision or order shall operate materially to reduce the profits derived by any zamíndár or málguzár from the mahál owned or managed by him, it shall be competent for such zamíndár or málguzár to relinquish his engagements, and the Revenue-officers shall in such case proceed to make a settlement of the mahál *de novo*.

Provisions relative to málikána and nánkár repealed.

5. *First.*—The provisions contained in the existing Regulations regarding the allowance to be made to zamíndárs and other málguzárs who may be excluded from the management of maháls owned or claimed by them, whether as málikána or nánkár, are hereby rescinded.

Málikána to be allowed to proprietors of estates farmed or held khás.

Second.—The proprietors of estates let in farm or held khás shall be entitled to receive an allowance of málikána, at such rate as the Board or other Authority exercising the powers of that Board may determine, anything in the existing Regulations notwithstanding: the said málikána to be apportioned in cases in which several proprietors may have heretofore held an estate under one common assessment, whether in joint tenancy or otherwise, according to the shares of each respectively:

provided also, that the málikána-allowance granted to the proprietor or proprietors of any mahál shall not in any case be less than five per cent. on the nett amount realized by Government from the lands; nor shall it exceed ten per cent. on that amount without the special sanction of the Governor General in Council;

provided further, that if the said proprietors shall in any case be in the receipt of any perquisite, or the profits of any lands in lieu of the nánkár formerly granted to them by the Native Governments or otherwise, in consideration of their proprietary tenure, the amount of such allowance shall be deducted from the málikána to which they are by this section declared to be entitled:

provided also, that this rule shall not apply to such zamíndárs as may continue in the occupancy of their tenures, whilst the mahál in which they are included is held khás or farmed or of any part of them, that is to say, zamíndárs who may cultivate or lease their lands and pay the revenue to the farmer or Government officer; nor, without the special sanction of Government, to any málguzár, zamíndár or other proprietor or holder of land who may directly or indirectly continue to draw any allowance from the raiyats of the lands farmed or held khás;

provided also, that málguzárs not being actual proprietors of the land included in the estate for which they may have formerly been under

engagements, though recorded in the accounts of past settlements as zamíndárs, taluqdárs or the like, or being proprietors of a part only of such land, shall not receive the above allowance on the jama of the estate, but shall receive such allowance in lieu of their title of management, as it may appear to Government to be equitable to assign, in addition to the málikána to which they may be entitled on account of any lands held by them in actual property, and of which they may not retain the occupancy: and no málikána shall be granted to any sadr málguzár on account of lands the occupants of which may deny his right of property, until he shall have established his right by a regular suit in a Court of Justice, or to the satisfaction of the Board. But in such cases, such provision will be made for the intermediate support of the party, as the Governor General in Council may, on the recommendation of the Board, see fit to direct.

Zamíndárs may be called upon to state jama for which they are willing to engage.

Third.—Provided, also, that if any zamíndár or sadr málguzár shall have been called upon by a Collector or other officer exercising the powers of a Collector to state the highest amount of jama for the payment of which he may be willing to engage, and shall have stated the same accordingly, the sum so stated by such zamíndár or sadr málguzár, and not the jama ultimately realized by Government, shall form the basis on which his málikána-allowance shall be adjusted; and in such case it shall and may be lawful for the Revenue-authorities to limit the said allowance to five per cent. on the said sum, or to a portion thereof, according to the extent of the proprietary interest possessed by the said zamíndár or sadr málguzár.

Provided, also, that if a zamíndár or sadr málguzár, when so called upon, shall fail to specify or tender any sum as aforesaid, then and in that case the nett revenue derived by Government from the mahál, on account of the year preceding that in which the Collector or other officer aforesaid may make the said requisition, shall be taken as the sum by which the amount of málikána (not being less than five, nor more than ten, per cent. on the same) shall be adjusted.[a]

Revenue-officers may revise settlement of estates of which existing leases shall be extended under section 2, during continuance of such extended lease.

6. *First.*—In cases wherein the existing engagements may be continued under the rule contained in section 2 of this Regulation, it shall and may be lawful for the Collectors, with the sanction of the Board, to enter at any time in the course thereof on a revision of the settlement, notwithstanding such continuance of the existing leases, and to adopt such measures as may be requisite for ascertaining and determining the extent and produce of the lands, and the amount of jama properly demandable there-

[a] See Regulation IX of 1833, section 11.

from, and for procuring and recording the fullest possible information in regard to the rights, interests, privileges and properties of the agricultural community, and to determine the same, with the same powers and authority as they now are or may hereafter be entitled to exercise in forming the settlement of estates open to re-assessment.

Revision of settlement how made.

Second.—The said revision of the settlement shall be made village by village and mahál by mahál; and such number of maháls shall be revised in each year, as the Board, under the orders of the Governor General in Council, may direct.

Revision of settlement not to operate to alter jama payable on account of lands included in existing engagements.

Third.—Such revision of the settlement shall not operate to disturb the existing engagements during the period for which they may be continued under the provisions of section 2 of this Regulation in so far as such engagements relate to the amount of jama demandable by Government; but the said engagements shall be held and considered to include only such villages and lands as may be specified in the proceedings or accounts of the settlement last concluded; and if on the revision of the settlement of any mahál it shall be found that there has been any material error or concealment of lands belonging to such mahál, the Collector shall be authorized, subject to the orders of the Board, separately to assess the lands so withheld from the knowledge of the Revenue-authorities, in the same manner and with the same powers as he would assess an unsettled mahál:

provided, also, that nothing in this or the preceding sections shall be construed to prevent the Revenue-officers from passing and enforcing such orders in regard to the rights and interests to be enjoyed by the different classes or persons connected with any mahál, during the period for which the existing settlement has been extended, as they may or shall be authorized to pass or enforce, when adjusting the assessment of an unsettled mahál.

Revision of settlement in Conquered Provinces and Bundelkhand.

Fourth.—It shall in like manner be competent to the Collectors in the Conquered Provinces, and in the Province of Bundelkhand, to enter on a revision of the settlement under the provisions contained in the preceding clauses of this section, during the continuance of the existing leases.

Leases to be granted on revision of settlement in Ceded Provinces, Katak, Paṭáspur, &c.,

7. *First.*—When a Collector in the Ceded Provinces or in the Province of Katak shall have completed the revision of the settlement of any maháls under the rules contained in the preceding section, it shall and may be lawful for him, subject to the orders of the Board and of Government, to grant to the proprietors, if willing to engage on adequate terms, renewed leases for such further term of years subsequent to the year 1234, Faslí or 'Amali,' as the Governor General in Council may direct.

Jama for years subsequent to

Second.—The assessment to be demanded on account of the years subsequent to the year 1234, Faslí, to which leases renewed as above may extend,

shall be fixed with reference to the produce and capabilities of the land, as ascertained at the time when the revision of the settlement shall be made, unless under special circumstances justifying a prospective enhancement of the Government demand: [a]

1234, how adjusted.

provided, also, that the amount of such assessment shall not be raised above that of the present jama, unless it shall clearly appear that the nett profits to be derived from the land by the zamíndárs and others who may be entitled to share in the profits arising out of the limitation of the Government demand, will exceed one-fifth of that amount; and in cases wherein any increase may be demanded, the assessment shall be so regulated as to leave the zamíndárs and others aforesaid a nett profit of twenty per cent. on the amount of the jama payable by or through them respectively: no abatement on the existing jama will be allowed, unless on the clearest grounds of necessity.

Third.—The pattás granted on such revised settlements shall be held only to secure the málguzárs from further demand during the term of their respective leases, on account of the lands specified in it, or described in the settlement rúbakárí of the Collector, with such allowance for error as may be distinctly declared at the time of settlement.

Pattás granted on revised settlement to cover only lands specified.

Zamíndárs and other persons entering into engagements will be required therefore to afford the fullest and most correct information in regard to the raqba of the maháls for which they may engage.

Fourth.—In like manner it shall and may be lawful for Collectors in the Conquered Provinces and in the Province of Bundelkhand to grant renewed leases for a further term of years subsequent to the expiration of the existing settlement, subject to the same rules, restrictions and provisions as are enacted in the preceding clauses relatively to the Ceded Provinces.

Grant of renewed leases in Conquered Provinces and Bundelkhand.

Fifth.—If any zamíndár or other sadr málguzár the settlement of whose estate may be revised under the above rules shall refuse to enter into suitable engagements for a further period beyond the term of the then current lease, or if after such revision the Revenue-authorities shall under any other circumstances deem it expedient to postpone taking further engagements for the payment of the revenue of any maháls until the expiration of the current leases, it shall be competent to them to do so; and in such case, the several rules contained in section 3 of this Regulation, relative to estates of which the settlement will expire with the present year, shall on the expiration of the said leases be and be held applicable to such maháls.

Power to postpone final settlement until expiration of current leases.

[a] Repealed in part by Regulation IX of 1833, section 2.

Rules applied to estates in Gorakhpur, &c.

Sixth.—The same rules shall also be applicable to the several mahâls within the district of Gorakhpur, the chaklá Azamgarh, the pargana Paṭâspur and its dependencies, as they may respectively become, or be declared, open for re-settlement.

Letting of excess waste-lands.

8. Where the waste-land belonging to or adjoining any mahál is very extensive, so as considerably to exceed the quantity required for pasturage, or otherwise usefully appropriated, it shall be competent to the Revenue-officers to grant leases for the same to any persons who may be willing to undertake the cultivation in perpetuity, or for such periods as the Governor General in Council shall determine; and to assign to the zamíndárs or others who may establish a right of property in the lands so granted an allowance equivalent to ten per cent. on the amount payable to Government by the lessees, in lieu and bar of all claims to or in the waste-lands so granted, or such other perquisites or privileges as by the custom of the country they may appear in such cases entitled to receive.

Allowance to zamíndárs.

Investigations by Collectors making or revising settlements.

9.[a] *First.*—It shall be the duty of Collectors and other officers exercising the powers of Collectors, on the occasion of making or revising settlements of the land-revenue, to unite, with the adjustment of the assessment and the investigation of the extent and produce of the lands, the object of ascertaining and recording the fullest possible information in regard to landed tenures, the rights, interests and privileges of the various classes of the agricultural community.

For this purpose their proceedings shall embrace the formation of as accurate a record as possible of all local usages connected with landed tenures, as full as practicable a specification of all persons enjoying the possession and property of the soil, or vested with any heritable or transferable interest in the land or the rents of it, care being taken to distinguish the different modes of possession and property, and the real nature and extent of the interests held, more especially where several persons may hold interests in the same subject-matter of different kinds or degrees.

This record shall, in pattídárí or bhaiyáchárá villages or the like, include an accurate register of all the co-parceners, not merely the heads of divisions, such as the pattís, thoks or behrís, but also as far as possible of every person who occupies land, disposes of its produce or receives rent as proprietor or as agent for one or more proprietors holding land and disposing of its produce, or receiving the rents of it in common, with a detailed statement of the interior arrangements adopted by the brotherhood for the distribution of the

[a] See Regulation IX of 1825, section 9, and Regulation IX of 1833, section 3, *infra*.

profits derived from sources common to the co-parcenency where any such exist, and for determining the share of the Government jama and of the village-expenses which each parcener is to contribute, or the other modes in which the engaging parcener or intermediate pattídárs and behrídárs collect from the cultivators.

A record shall likewise be formed of the rates per bígha of each description of land or kind of produce demandable from the resident cultivators not claiming any transferable property in the soil, whether possessing the right of hereditary occupancy or not, and the respective shares of the sadr málguzár or other manager, and the cultivator, in lands cultivated, under kankút, batái or similar engagements, with a distinct specification of all cesses or extra collections made by the málguzár or village-manager, or other.

The names of all the village-patwárís and village-watchmen shall also be registered, with a statement of the amount and nature of the allowance assigned them.

And all lákhiráj tenures shall be carefully recorded, with a specification of the nature of the tenure.

The information collected on the above points shall be so arranged and recorded as to admit of an immediate reference hereafter by the courts of judicature, it being understood and declared that all decisions on the demands of the zamíndárs shall hereafter be regulated by the rates of rent and modes of payment avowed and ascertained at the settlement, and recorded in the Collector's proceedings, until distinctly altered by mutual agreement, or after full investigation in a regular suit: and all cesses or collections not avowed and sanctioned, nor taken into account in fixing the Government jama, shall be held illegal and unauthorized, unless now or hereafter specially sanctioned by Government.

Collectors, &c., may grant pattás to mufassal zamíndárs and raiyats.

Second.—Provided also, that it shall be competent to Collectors and other officers as aforesaid (subject to the orders of the Board) to grant pattás to the several mufassal zamíndárs and raiyats or other owners or occupants of land, for the land owned or occupied by them, specifying the amount to be paid by them, and all the conditions attaching to their tenure; and a register of all pattás so granted shall form a part of the rúbakárí of settlement.

Power to take engagements for revenue without completing detailed inquiry.

Third.—Provided, however, that if from the number of estates of which the leases may at once expire in any district or from any other special cause, it shall be found necessary, for the security of the Government revenue, to take engagements from any zamíndár, málguzár or farmer, without completing the detailed enquiries above directed, it shall be competent to the Boards of Revenue or other Authority exercising the powers of such a Board to cause

engagements for the revenue to be taken in the manner heretofore in use, reporting the circumstance to the Governor General in Council; but the term of the engagements so taken shall not exceed five years, and the rules relative to the revision of the settlements of mahals of which the existing leases have been extended under the provisions of section 2 of this Regulation shall be equally applicable to estates for which such engagements shall be taken.

Power to determine which of several holders of differing interests, having separate properties in same land, shall be admitted to engage, and

10. *First.*—Of several parties possessing separate heritable and transferable properties in any parcel of land or in the produce or rent thereof, such properties consisting of interests of different kinds, it shall be competent to the Governor General in Council to determine and direct which of such parties shall be admitted to engage for the payment of the Government revenue, due provision being made for securing the rights of the remaining parties.

to prescribe distribution of profit resulting from limitation of jama.

It is further hereby declared and enacted, that it is and shall be competent to the Governor General in Council, in confirming the settlement of any mahál in perpetuity or for a term of years, to determine and prescribe the manner and proportion in which the nett rent or profit arising out of the limitation of the Government demand shall be distributed among the different parties possessing an interest in the lands appertaining to such mahál or in the rent or produce of such lands or mahál.

Mufassal settlements in cases where title of intermediate manager between Government and proprietors or hereditary occupants of soil are maintained.

Second.—In cases wherein any land appertaining to a mahál hitherto recognized as the taluqa, zamíndárí or the like, of one or more sadr málguzárs, may be owned or occupied by other persons holding under the sadr málguzár and possessing an heritable and transferable property therein, or an hereditary right of occupancy subject to the payment of a fixed rent, or of a rent determinable by a fixed principle, if the title of the said sadr málguzár to engage for the revenue be upheld, and generally in cases wherein the tenure of an intermediate málguzár or manager between the Government and the proprietors or hereditary occupants of the soil may be maintained, whether the Government revenue be collected from the zamíndár, taluqdár or other hereditary intermediate málguzár, or the mahál be farmed or held khás, it shall be competent to the Collector or other officer who may be employed in adjusting the jama to be assessed on such mahál, with the sanction of the Board previously obtained and subject to the orders and directions of that Authority, to make a mufassal settlement with each of the proprietors or occupants aforesaid for the land possessed by him, and to grant such proprietors or occupants pattás, defining the condition on which they are to hold their land, whether subordinate to the sadr málguzár or to the farmer or officer of Government employed in the khás management; and in all such cases, if engagements for

the Government revenue of the mahál be taken from the intermediate hereditary málguzár, the particulars of the mufassal settlement, when approved by the Board, shall be indorsed on the pattá to be granted to the sadr málguzár, or shall be so incorporated with the engagement taken from him as to form part of the same.

Settlement where several persons hold common property subject to common obligations.

Third.—In cases in which two or more persons may possess a joint property in any village, mahál or parcel of land, or in the rent or produce of any village, mahál or land, or in any part of such village, mahál, land, rent or produce, the property of such persons consisting of interests of the same kind, whether of the same extent or otherwise, as well as in cases wherein such property in any mahál, village, land, produce or rent may be separately possessed by parties subject by prescriptive usage to common obligations, whether existing or contingent, it shall be competent to the Collector or other officer exercising the powers of Collector, subject to the orders and direction of the Board and of the Governor General in Council, either to make a joint settlement with the parties collectively or a majority of them, or with an agent appointed by them or a majority of them, or to select one or more of them to undertake the management of the mahál as sadr málguzárs, due advertence being had to the wishes of all the coparceners, and to the past custom of the village or villages comprised in the mahál.

When joint settlement to be made, parties how summoned.

Fourth.—When it shall be determined to make a joint settlement for any village, mahál or parcel of land, with the parties possessing therein a joint property as aforesaid, the Collector or other officer making the settlement shall give notice of his intention, by a written proclamation to be stuck up in some public place within the village, mahál or land, and shall require all persons possessing therein a property as aforesaid to attend, either in person or by representative duly authorized in the matter, within a reasonable period, at a stated place and time, and to declare their agreement or non-agreement to the jama proposed to be assessed on the village or land.

Persons wilfully failing to attend when summoned, to be bound by decision of majority present.

Fifth.—If any person or persons, when summoned as above, shall refuse, neglect or omit to attend, either in person or by representative, such person or persons shall be held to be bound by the decision of the majority of those who may attend, in agreeing or disagreeing to the jama, and his or their interests and estate shall, unless otherwise specially allowed, be held responsible for the Government revenue, and be liable to sale in the event of any arrear accruing on account of the settlement.

Treatment of parceners not joining in settlement.

Sixth.—If any person or persons shall attend and shall object to the jama proposed to be assessed, then, should a settlement be made with the other parties present, the objecting parties shall be left in the enjoyment of the same rights and interests as they would enjoy in the event of the mahál

being farmed or held khás; and in so far as regards the lands to which such rights and interests attach, the other parceners, if their engagements be extended thereto, shall be considered farmers of the Government revenue, to hold the same under leases of such term as may be determined and agreed upon under the general rules applicable to lands for which the proprietors may refuse to engage.

Rates of rent of cultivating proprietors of lands of which revenue collected khás or farmed.

Seventh.—When any mahál or portion of a mahál, held by a number of cultivating proprietors in pattídárí or bhaiyáchárá tenure or the like, shall be let in farm or held khás, the rent demandable from the proprietors of such mahál or portion of mahál, on account of the land occupied and cultivated by themselves, shall be adjusted by the rates payable by raiyats or other resident cultivators not having an heritable and transferable property in the soil, for lands of a similar description in the same or in the adjoining villages, with a deduction of five per cent. on account of málikána, or such other rate, not being less than five per cent., as Government may determine.

Liability for default of non-engaging parceners when settlement of mahál made with one or more of them as sadr málguzár.

Eighth.—When it shall be determined to make a settlement of a mahál of the above description with one or more of the parceners selected to manage, collect and account for the public revenue as sadr málguzár, then and in that case the interests of the non-engaging parceners shall not be held answerable for the default of the sadr málguzárs, save and except in so far as may be specifically provided.

Such parceners shall, until regularly separated, continue to hold their lands as subordinate proprietors, subject to the payment of rent or revenue to the sadr málguzár at the rates and in the mode heretofore in use, excepting in so far as that usage may be affected by the determination of Government in regard to the distribution of the nett rent or profit derived from the limitation of the Government demand, or by the rules now in force or hereafter to be enacted, for vesting the sadr málguzárs with specific powers over the subordinate tenants in the collection of the rent or revenue demandable from them.

The responsibility attaching to the persons selected as sadr málguzárs and the conditions under which they are to hold that title of management, will in each case be specifically declared at or after the time when the settlement is confirmed.

The conditions and limitations under which the subordinate proprietors shall be admitted to separate engagements will also be similarly declared.

Parcels separately owned and occupied may be separately settled.

Ninth.—Provided, further, that in all cases wherein different parcels of land belonging to any mahál may be separately owned and occupied by different proprietors or by different bodies of proprietors, it shall be competent to the Boards of Revenue or other Authority exercising the powers of that Board to

cause a separate settlement to be made for the land owned and occupied by each proprietor or by each body of proprietors, and each parcel of land for which a separate settlement may be so made shall be held exclusively responsible for the revenue assessed upon it.

Power to partition and to settle separately with each proprietor.

Provided, also, that if the several parties possessing a joint property or separate properties subject to a common obligation as aforesaid, or any of them, shall apply to a Collector or other officer making or revising a settlement, to have separate possession of their several share or shares in such joint property, or to be admitted to separate engagements, it shall be competent to such Collector or other officer, with the sanction of the Board or other Authority to which he may be subordinate, to make a partition of the property among the different parties according to their respective interests, and to make a separate settlement with each of them or with such as may desire to enter into separate engagements.

Proprietors excluded from engagements, may have their names registered.

Tenth.—In all cases wherein any proprietors may be excluded from engagements, the Collector shall be careful to let it be known that all persons possessing a property in the mahál are entitled to have their names recorded in the rúbakárí of settlement, with the amount or rate of the assessment demandable from each.

Collectors forming such registry to proceed on basis of actual possession.

11. *First.*—The Collector's proceedings in forming the registry above directed shall be founded on the basis of actual possession, and that officer shall, in every instance, be careful to record the precise nature of the authority on which the entries in his books may be made.

In conformity with the above principle, it shall be competent to the Collectors or other officers when making or revising settlements, or otherwise deputed to investigate and determine the circumstances of any mahál, and the nature of the tenures connected with it, to correct the errors or omissions of former settlements by admitting to engagements or entering on the public records the names of the persons found in the *bonâ fide* possession of land or in the receipt of rent under a proprietary title; and in such cases the Collector will hold an official proceeding, explaining fully the grounds on which he may act.

In estates held under pattídárí, bhaiyáchárá or like tenure, Collectors may re-allot revenue and charges payable by several parceners.

12.[a] *First.*—In cases in which the proportion of the Government jama and village-expenses payable by each proprietor and by each body of proprietors comprised in the several pattís, behrís and other divisions of an estate held under pattídárí or bhaiyáchárá tenure or the like may have been originally fixed on a measurement of the lands occupied by each, with reference to the quantity in cultivation, and may be liable by the usage of the country to

[a] See Regulation IX of 1833, section 2.

periodical adjustment on the same principle, if the Collector or other officer making or revising the settlement shall be satisfied, by examination of the patwáris' accounts or otherwise, that the contributions paid by any proprietor or body of proprietors as aforesaid, are materially in excess of the amount justly demandable from them, it shall be competent to him, with the previous sanction of the Board, to cause a new distribution to be made of the revenue and charges payable by each, with reference to the above principle, and to such resolutions as Government may have passed relative to the apportionment of the nett rent or profits arising out of the limitation of the Government demand; and in the performance of this duty to employ the kánúngo, and such person or persons as he may judge it advisable to appoint, and to settle the jama payable by the different parties according to the award of such person or persons, or otherwise as shall appear to be just and equitable.

And in certain cases may make fresh partition of land.

Second.—In like manner, in cases in which the several proprietors shall be entitled not only to an adjustment from time to time of the jama payable on account of the lands occupied by them, but likewise to a periodical partition of the lands of the village, with reference to the share recorded as belonging to each, it shall be competent to the Collector to cause a fresh partition of the lands and adjustment of the jama to be made as above prescribed, and at the same time to fix and declare the period from which the arrangement as finally settled is to have effect, and to adjust the claims of the parties relative to the revenue intermediately paid by them, as may appear equitable;

provided, however, that no such partition or adjustment shall be final until confirmed by the Board or other Authority exercising the powers of that Board;

Cases in which parties affected by Collector's decision may contest it in Court.

provided also, that if any parties shall dispute the existence of the usage under which the partition of the lands shall have been made, and shall claim to be restored to possession of the lands which the Collector may have transferred to another, or shall consider himself entitled to the benefit of a new partition of the lands comprised in the mahál to which he may belong, in any case in which the Collector may have refused to order it, it shall be competent to the said party to bring a regular suit in the Zila Court against the person or persons to whom the lands may have been transferred, or the person or persons who may resist the partition, to try the justness of the Collector's decision; but if the existence of the usage shall be admitted or established, it shall not be competent to the courts of judicature to question the accuracy of the partition of the land, or adjustment of the jama;

On what points Revenue-officer's decision conclusive.

and whenever the decision of a Collector for the partition of any land shall be set aside, it will of course belong to the Revenue-authorities to re-adjust the jama with reference to the interests of the parties as defined and settled by the final decision of the courts of judicature, and to the conditions of the tenure, and

to any general or special resolution of Government relative to the distribution of the nett rent or profit arising out of the limitation of the public assessment.

Collectors not to disturb possession unless specially authorized.

13. Collectors and other officers exercising the powers of Collectors shall not, unless where specially authorized in the manner prescribed in this or some other Regulation, do any act tending to disturb possession, but shall leave the Adálat to investigate in a regular suit all claims of persons not in possession, but deeming themselves entitled to be so.

Collectors making or revising settlements may declare nature and extent of interests of persons occupying land.

14. *First.*—Collectors making or revising settlements shall, in cases in which any dispute may exist in regard to the nature of the tenure of any person occupying the soil, be competent to declare in an official proceeding, to be incorporated in the rúbakárí of settlement, the nature and extent of the interests actually possessed by such occupant, referring to the denomination heretofore applied to him only as one means of proof in regard to the nature of the interest, but stating at length, with specification of any examination he may take for his satisfaction, the grounds of his determination;

so also in cases of dispute regarding the extent of the interest belonging to any sharer in a village or villages held under pattídárí, bhaiyáchárá or the like tenure, such sharer having actual possession of a portion of such village or villages, or being in the actual receipt as proprietor of a share of the joint profits of the land, it shall be competent to the Collector to decide the point in the first instance in his rúbakárí of settlement, and to enforce his decision, leaving the party who may deem himself aggrieved to seek redress by a regular suit in the Courts to try the right;

but nothing herein contained shall be construed to authorize the Courts to interfere with the decision of the Collector in regard to the amount or proportion of jama to be assessed on any parcel of land, or in respect to the quantity and description of land to be assigned in partition to the holder of any specific share of a joint estate.

Cognizance of claims to larger profits, or larger share of village, than hitherto.

Second.—The above rule shall not be construed to empower Collectors, unless otherwise authorized, to take cognizance of any claim to receive a larger portion of the common profits than the claimant has hitherto enjoyed, or to hold a larger portion of the village or villages than he has hitherto occupied.

Maintenance by Courts of decisions of Revenue-officers.

Third.—The decisions passed by the Collectors under the above powers if not altered or annulled by the Board or by Government shall be maintained by the Courts, unless on investigation in a regular suit it shall appear that the possession held under such a decision is wrongful; and nothing herein contained shall be understood to authorize any Court to interfere with the decision of the Revenue-authorities relative to the jama to be assessed on any mahál or portion of a mahál, or to the extent and description of lands belong-

Bar to interference by Courts.

ing to any mahál that may be assigned on the partition of the same to the several parceners concerned.

Cognizance by Collectors of complaints of wrongful dispossession.

Fourth.—If any person shall complain to a Collector or other officer making or revising the settlement of any mahál that he has been wrongfully dispossessed from any lands, premises, crops, orchards, pasture-grounds, fisheries, wells, water-courses, tanks, reservoirs or the like, within such mahál, or of the rents, produce or profits of such lands, premises, &c., the like as aforesaid, or that he has been wrongfully disturbed in the possession thereof, it shall be competent to the Collector or other officer aforesaid to inquire into the matter, and if the party so complaining shall appear to have been in possession in the year preceding that in which the complaint is brought, and there shall otherwise be reason to believe that he has been violently or wrongfully dispossessed or disturbed, it shall be competent to the Collector to restore or confirm him, recording the grounds of his determination in a rúbakárí; and the opposite party shall in such case be left to bring a regular suit in Court to try the question of right.

Adjustment of disputes as to possession.

In like manner should a Collector or other officer as aforesaid find that there exist in any mahál of which he may be making or revising the settlement, any disputes relative to the possession of lands, premises or the like, which it may be expedient to adjust, it shall be competent to the Collector or other officer aforesaid to pass a decision determining the point of possession, leaving the question of right, if further disputed, to be settled by the result of a regular suit in the Adálat.

Cases to which foregoing provisions apply.

Fifth.—The above provisions will be held to apply to all cases in which a zamíndár or under-tenant, whether farmer or raiyat, having by special deed or prescriptive title a right of occupancy, shall have been wrongfully ousted from the occupancy of lands held and cultivated by him in the preceding year, or in which the rents and profits of any land which were received by such dispossessed party in the preceding year shall be withheld from him without a legal award, or a voluntary act of the party involving the transfer, renunciation or relinquishment of such rents and profits.

But the above rule shall not apply to any case in which the complaining party may have executed any deed purporting to be a relinquishment of possession, unless it shall have been established by some judicial proceeding that such deed was extorted by force and terror, nor to any cases wherein the complainant shall have in any way lost or relinquished possession previously to the commencement of the year preceding that in which the complaint may be preferred.[a]

[a] See Regulation IX of 1833, section 3.

15. In the settlement of any resumed mahál held or pretended to be held under sanads from the ruling power, or from the ámils or other officers of the Government, whether such lands shall have been heretofore subject to the payment of revenue or otherwise, it shall be competent to the Collector or other officer making the settlement to hear, try and determine all claims to the property and possession of the land comprising such mahál, or the rents or produce thereof, anything in the existing Regulations notwithstanding, and subject to the orders and direction of the Board of Revenue or other Authority exercising the powers of that Board to give possession to, and conclude a settlement with, the party who may appear to have the best title, leaving other claimants to establish their claims by a regular suit in the Zila Court, by which all decisions passed by the Revenue-authorities under this section may, on such suit being fully heard, sued and determined, and not otherwise, be revised, annulled or altered.

In settling resumed mahálś, Collectors may take cognizance of claims to property therein.

And may give possession to parties appearing to have best title.

The above rule shall not extend to lands held free of assessment under grants made by or at the request of the proprietors themselves or their representatives, the settlement of which shall ordinarily be made with the parties in possession, if willing to engage on adequate terms.

Limitation of rule.

16. It shall be competent to the Governor General in Council to grant to a Collector making or revising the settlement of any mahál whether the same may have been held by a lákhiráj tenure resumed, or being málguzárí, may have become open to resettlement in ordinary course, special authority to hear, try and determine as above all claims to the property and possession of the lands lying within such mahál or the rent or produce thereof, and to give possession to the party who may appear to have the best title, subject to the orders and direction of the Board, and further subject, as above, to the revision of the Zila Court on a regular suit;

Power to grant to Collectors making or revising settlements, special authority to take cognizance of claims to property and possession of land.

provided, also, that whenever special authority may be given to any Collector as aforesaid, notice of the order of Government shall be published by a proclamation within the mahálś to which the authority so given may extend; and it shall be the duty of the Collectors and the Boards[a] to see that such proclamation is duly made.

But no decision passed by a Collector under this or any other section whereby such notification is required, shall be disturbed by any court of judicature otherwise than after a full and regular investigation of merits, on the plea that proclamation was not made.

17. It shall be competent to Collectors and other officers engaged in making or revising the settlement of any pargana, mauza or other local divi-

Power to take cognizance of claims to

[a] *Sic.* Read "Board."

property in lands held lákhiráj, or at a mukarrarí jama, under valid tenures, and to settle with proprietors on behalf of lákhirájdár, or mukarrarídár.

sion, on the application of persons claiming a right of property in lands held free of assessment, or at a mukarrarí jama, under unquestioned grants from the ruling power, or from the ámils or other officers of Government, and situate within or adjoining to such pargana, mauza or other local division, to receive, try and determine the claim; and if satisfied that the applicants do possess or are entitled to possess an hereditary and transferable property in the land or the produce or rent thereof, the Collector or other officer, with the sanction of Government previously obtained, shall be authorized to conclude a settlement with them on behalf of the lákhirájdár or mukarrarídár, for such period as the Governor General in Council may direct, and shall grant to each of the said proprietors pattás, defining the conditions on which they are to hold their lands, subordinate to the lákhirájdár or mukarrarídár.

It shall further be competent to the Collector, under the orders of the Board, to fix and declare the amount of málikána or other proprietary allowance to be paid by such lákhirájdárs or mukarrarídárs to the said proprietors, in the event of their being divested of the occupancy and management of their lands:

provided, however, that either party who may be dissatisfied with the decision of the Collector as to the question of the right of property, shall be at liberty to contest the same in a regular suit in the Adálat; but the Court shall not interfere to alter the terms on which the settlement may have been made by the Collector with proprietors, or the amount of málikána granted to such persons.

Collectors to be judges of question of jurisdiction.

18. The Collector shall in cases of doubt be the judge of the question of jurisdiction, subject to the orders of the Board and of Government; and the courts of judicature shall not disturb possession given by the Collector, except on a regular suit, and on a decision as to the right.

Collectors authorized to summon witnesses and require production of accounts.

19. [a] *First.*—It shall be competent to Collectors, when prosecuting the above inquiries or hearing and trying the above suits, or otherwise when authorized in that behalf by the Board to which they may be subordinate, to require all sadr málguzárs and other persons owning, occupying, managing or cultivating any lands within or in the vicinity of the mahál to which their inquiries may extend, or gathering or disposing of the produce thereof, or collecting, enjoying or appropriating any rent or revenue derived therefrom, as well as the gumáshtas or other agents employed by such persons in the management or cultivation of the land, or in the collection of the rent, produce or revenue thereof, to attend and produce all accounts or other papers which they may respectively possess relative to such lands, produce, rent or

[a] See Act No. XX of 1848, *infra*.

revenue, and to examine the said persons on oath or halfnáma to the truth of the accounts produced, or on any other matter relating to such accounts, or regarding the lands, produce, rent or revenue of the mahál or the rights and interests attaching to such lands, produce, rent or revenue:

provided, however, that no person shall be compelled to answer on oath or solemn declaration any interrogation regarding matters wherein he may have an immediate personal interest in concealing the truth, or in uttering what is false, not being an interest arising out of fear, favour or reward, or any corrupt bargain or agreement with another party.

Rules of Regulation II. 1819, applied to process issued by Collectors.

Second.—The rules contained in section 11, Regulation II. 1819,[a] relative to the mode of serving process on persons who may be required to attend and produce accounts under the provisions of that Regulation, shall be and be held applicable to processes issued by Collectors or other officers under the rules contained in this Regulation.

Also to patwáris and others summoned or examined.

In like manner, the provisions of section 12[b] of the said Regulation shall be applicable to all patwáris, gumáshtas or other persons by whom the accounts of any lands, regarding which the said inquiries may have been instituted, may be kept, and who, after being duly summoned as aforesaid, may neglect or omit to produce any of the accounts required from them, or to give their evidence regarding them, or who may deliberately give a false deposition on oath or solemn declaration, when summoned and examined as aforesaid, or who may alter, fabricate, falsify or mutilate the accounts which they may be required to produce:

Powers of Collectors.

provided, further, that Collectors and other officers employed in the settlement of the land-revenue, or in any of the inquiries specified in this Regulation, shall be vested with all the powers and authority which are or may be lawfully exercised by Collectors in cases depending before them under Regulation II. 1819; and the rules contained in clause third, sections 13, 14 and 19 of the said Regulation, shall be and be held applicable to all persons who may be summoned by any Collector or other officer aforesaid, or who may resist the process of a Collector issued under the rules of this Regulation, or who may refuse to take an oath or subscribe a solemn declaration when required, or who may deliberately give a false deposition on oath or under a solemn declaration taken instead of an oath, or may cause or procure another to do so.

Rules applied to other persons upon whom process may be issued.

Powers ordinarily vested in Collectors making or revising settlements.

20.[c] *First.*—The powers specified in sections 11, 12, 14, 16, 17, 18 and 19 of this Regulation shall be ordinarily exercised by Collectors when employed in making or revising settlements of the land-revenue, and shall extend to all the

[a] See *supra*, p. 141.
[b] See *supra*, p. 146.
[c] Section 20 and the following sections of this Regulation are partially repealed by Act No. X of 1859. See also Regulations IX of 1825 and IX of 1833, section 3, *infra*.

lands comprised in the pargana in which he may be so employed; but it shall be competent to the Government, by an Order in Council to be publicly proclaimed in the district, to restrict the authority of Collectors and other officers making settlements in such manner and to such extent as he may from time to time judge expedient.

In like manner, it shall be competent to Government to vest such Collectors as may from time to time be judged fit, with a special authority to receive, try and determine in the first instance, subject to a regular suit in the Adálat as above provided, all or any of the questions of the nature specified in the aforesaid sections, though the said Collectors may not be engaged in making or revising a settlement of the land-revenue, and to vest in such of the Collectors as may be thought proper, authority (either generally or within such limits as may be from time to time determined) to receive, try and determine by summary process all suits for rent which may be preferred by zamíndárs, taluqdárs or other sadr málguzárs or farmers of land, or by any person in their behalf, against any dependent taluqdár, zamíndár, under-renter, raiyat or other under-tenant of whatever denomination, as well as all applications by raiyats and the under-tenants contesting the demand of a sadr málguzár or farmer;

and all complaints preferred by raiyats or other under-tenants of whatever description, against landholders or farmers of land, or their respective agents or representatives, on account of excessive demand or undue exaction of rent, whether levied by distraint or otherwise, as well as all suits relative to the adjustment of accounts between landholders and farmers of land or under-tenants of whatever description, with their sureties, or with any agents or persons employed by them in the management of land, or the collection or payment of the rent of land, and to all other matters immediately connected with the demand, receipt or payment of the rent of land, whether málguzárí or lákhiráj, or with the rent of orchards, pasture-grounds and fisheries, commonly denominated phalkar, bankar and jalkar, or with any other asset of the land-revenue not included in the sáír abolished, together with all complaints of the non-delivery of pattás when demandable under the Regulations, or complaints of the prescribed receipts not being given for actual payment of rent, and generally, complaints of any deviation from the Regulations, or from the established usage of the country, relative to the matters aforesaid, or any violation of subsisting engagements in disputes respecting the rent and occupancy of land, between landholders or farmers of land and their under-tenants of whatever denomination.

Appointment of Collector to discharge above duties, how notified.

Second.—The appointment of the Collector to the discharge of the above duties, and the extent of the jurisdiction to be assigned to him, shall be notified by proclamation in the district, after such manner as the Governor General in Council may direct; and after the publication of such notice, all summary

suits, actions, applications and complaints of the above nature, and referring to lands or the rents, produce or accessions of land lying within the jurisdiction assigned to the Collector as above, which may be preferred in the zila Adálat by any sadr málguzár, zamíndár, taluqdár, farmer, raiyat or other proprietor or under-tenant of land, shall, immediately on being received, be referred for trial to the Collector, to whom also all such summary suits depending at the time shall be transferred;

provided, also, that in such cases, parties having suits or complaints to prefer, of which the cognizance may be vested as above in the Collector, shall be at liberty to prefer them to that officer in the first instance.

It shall in like manner be competent to the Governor General to fix, by an Order in Council, the period at which the special powers given as above to a Collector, and the authority to be ordinarily exercised by those officers on the occasion of making settlements, shall cease and determine.

Third.—No complaint or application of the nature specified in the preceding clauses shall be received by a Collector under the rules of this Regulation, unless the plaint or application shall have been preferred within the period of one year after the cause of action shall have arisen. Limitation of time for preferring complaints specified.

21. In summary suits for rents and the like, wherein special rules have been prescribed for regulating the process of the Courts, the Collectors shall be guided by the same rules, and shall exercise the same powers and authority, as are or may be lawfully exercised by the Zila and City Judges. Rules for guidance of Collectors. Their powers.

In other cases falling under their cognizance according to the provisions of this Regulation, the ordinary process for securing the attendance of the defendant or party otherwise impleaded shall be to issue a notice reciting the matter, and requiring the defendant or other party to attend in person, or by representative, at such time and place as may be made choice of by the Collector for conducting the investigation;

should any party fail to attend after being served with a notice of the above description, or should the return of the názir or person employed to serve the notice be, that after diligent search the party or parties cannot be found, proclamation shall be made in writing, to be stuck up at or near the ordinary residence of the party, stating that after fifteen days from the date of publishing the same, the case will be liable to be brought up for trial and judgment; and any party implicated, who, having been served with the notice above described, shall fail to attend or who shall continue to absent himself, will be as much bound by the judgment that may be passed, as if he or they had been in attendance to plead.[a]

[a] See Regulation VIII of 1831.

22.—[*Repealed by Act No. X of 1859.*]

Collector's kachahrí held a civil court.

23. *First.*—It is hereby declared and enacted, that in so far as concerns the summoning and examination of witnesses, the penalties for false testimony, for resistance of process, contempts and all other similar matters connected with cases under cognizance before the Collectors of land-revenue or other officer, by virtue of the powers vested in them by this Regulation or any other Regulation whereby Collectors are vested with judicial powers, their kachahrí or office for the time being shall be deemed and held to be a court of civil judicature.

Suits to contest Collector's decisions held to be appeals from summary awards.

Second.—Provided, also, that the regular suits which may be brought to contest decisions passed by Collectors, under the powers vested in them by sections 11, 12, 14, 15, 16, 17, 18, 19 and 20, shall be of the nature of an appeal to Court in its regular jurisdiction from a summary award. It shall not therefore be necessary for the Collector or other officer of Government to be a party in the action.

Collectors authorized to execute their awards.

Third.—Collectors of the land-revenue are hereby empowered to execute all awards made by them under the rules of this Regulation, in cases wherein a specific sum of money shall be adjudged to be due, or any costs or damages be awarded; the Collector decreeing the same shall proceed to levy the amount for the party in whose favour it may be adjudged, by the process in use for the recovery of arrears of the Government revenue;

provided, however, that he shall not sell any lands, houses or other real property in satisfaction of any judgment passed in favour of any individual on a summary inquiry.[a]

In cases wherein possession of lands, houses, watercourses or the like may be adjudged, it may and shall be lawful for the Collector making the award to deliver over possession in the same manner and with the same powers in regard to all contempts, resistance and the like, as are or may be lawfully exercised by the Courts in giving possession to an auction-purchaser; and the Zila Adálats shall support the Collectors in the exercise of the above power, and shall give effect to any orders passed by them in pursuance of it, in the like manner as if the same had been passed by themselves.

Collectors are further hereby empowered to place one or more peons, mírdahas, sawárs or the like, to aid in the maintenance of possession for the party to whom it may be awarded, in case of his deeming such a measure necessary or expedient.

Collectors authorized to depute Native

24. *First.*—It shall and may be lawful for a Collector or other officer exercising the powers of Collector, preparatory to making or revising a settle-

[a] Act No. VIII of 1835 repeals so much of this clause as prohibits the Collectors from selling *land* in satisfaction of summary awards for arrears of rent which may have accrued thereon.

ment as aforesaid, to depute any tahsíldár, kánúngo, ámín or other fixed or temporary officer, to any village or mahál, whether the same be managed by a zamíndár or farmer or be held khás, to inquire into the various matters which such Collector or other officer is required or empowered to investigate, in order to form a settlement in the mode prescribed by this Regulation.

officers to make inquiries preparatory to settlement.

Any such Native officer so deputed as above shall be deemed to be vested with the power of summoning and examining patwárís, gumáshtas or other persons by whom the accounts of the village or mahál may be kept, in the same manner and with the same powers as is provided for officers deputed under section 25, Regulation XII. 1817.[a]

Furthermore, in case the Collector or other officer may so prescribe, the said tahsíldár or other person shall be empowered to make a measurement of the village or mahál into which they may be deputed, and to summon any mukaddams, padháns, raiyats or other residents, and to call upon them to point out the boundaries of such village or mahál, and to furnish information as to all matters relating to the land and the rights and interest attaching thereto; and any person contumaciously withholding information from an officer deputed as aforesaid shall be liable, on the same being established to the Collector's satisfaction, to the same penalty as is prescribed for patwárís refusing to attend or give evidence.

Second.—Provided also, that any person who may by force or threats obstruct or resist the execution of any legal process, requisition or order of a Collector or other Revenue-officer shall, in addition to the penalties prescribed by the existing Regulations for such act, be liable to a fine not exceeding two hundred rupees, or to imprisonment in the Díwání jail for a period not exceeding two months; the said fine or other penalty to be adjudged by the Collector, after proceeding duly held and recorded, and the sentence to be immediately reported to the Board to which he may be subject.

Punishment of resistance or obstruction of process or order of Collector.

Third.—Provided further, that all Police-officers shall aid and support the execution of all process and orders issued by a Collector or other officer aforesaid, on the responsibility of the officer issuing or executing the same; and if any affray or breach of the peace shall occur in consequence of any resistance or obstruction being made, or attempted to be made, to the legal process or order of a Collector or other Revenue-officer, the parties resisting or obstructing such process or order shall be punishable for the affray or breach of the peace, and the Revenue-officers shall not be liable to any criminal prosecution on that account.

Police-officers to aid execution of process and orders of Collector.

25.—[*Repealed by Act No. XX of 1865.*]

[a] See *supra*, p. 123.

Pleadings required.

26. No other pleadings shall be required from the parties in such suits than a plaint and answer; provided, that if the parties should at any time wish to file an amended plaint or an amended answer, or any explanatory motion, such subsidiary pleadings shall be received.

27.—[*Repealed by Act No. XII of 1876.*]

Collectors may try and determine suits in any part of their districts.

28. It shall be competent to the Collectors to hear and determine such suits in whatever part of the district they may occasionally be or reside; provided that every hearing and decision be in public kachahrí or in some other place open to the public, and in the presence of the parties or of their constituted agents or vakíls, if in attendance.

Appeal to Board.

29. *First.*—The decisions of the Collectors on all such suits shall be appealable to the Board of Revenue or other Authority exercising the powers of that Board.

The petition of appeal shall be presented either to the Collector or to the Board, at the option of the party; but no petition of appeal shall be received after the expiration of three months from the date of the decision, unless sufficient cause shall be shown for the delay to the satisfaction of the Board;

Procedure on such appeals.

provided also, that the Board shall not be required in ordinary cases to go into a regular investigation of the merits, but shall be authorized to dismiss the appeal without further investigation, in all cases in which, on a consideration of the final rúbakárí of the Collector, they may not see ground to consider the decision of that officer to be unjust, erroneous or doubtful, or his proceedings in the case irregular or imperfect;

When Board may direct new trial or interpose to correct neglect or delay.

provided also, that in all cases in which the Collector may dismiss the suit for non-attendance, or on some other ground of default, without an investigation of the merits of the case, it shall be competent to the Board to direct a new trial, and in cases in which he may neglect or delay the investigation or decision of a suit without sufficient cause, it shall be competent to the Board to interfere, and to cause the Collector to proceed upon the inquiry into and determination of it.

Pleadings required in appeals to Board.

Second.—No pleadings, except the petition of appeal, shall be required in such appeals, nor shall any fees be taken by the Board on the exhibits originally filed, or on any further documents which the Board may think it necessary to call for.

No mukhtárnáma required for same agents re-employed.

Third.—If the parties choose to employ in the pleading of such appeals the same agents or vakíls who were previously employed by them in the original suit, no further mukhtárnáma or vakálatnáma shall be required of them.

Respondent to receive notice, but

Fourth.—The respondent shall receive notice of the appeal, but shall not be compelled to appear in person or by vakíl; and the appeal shall be decided on

the merits of the case, notwithstanding his absence, in the same manner as if he had attended. not required to appear.

Fifth.—The decision of the Board shall be final in as far as concerns the result of the summary inquiry of the Collector. Board's decision how far final.

Sixth.—Any person, however, dissatisfied with the summary judgment of the Collector or the Board, and desirous of a more full and formal decision, shall be at liberty to prefer a regular suit to try the merits of the case in the zila or other similar or superior Court in which it may be cognizable. But decision of Board and Collector may be contested by regular suit.

In such cases the summary judgment of the Collector, if not reversed or stayed by the Board, shall be carried into effect notwithstanding the institution of the regular suit.[a]

30. All persons having claims or complaints to prefer of the nature of those made cognizable by Collectors under the provisions of this Regulation, and not wishing to avail themselves of the summary process authorized in that Court, shall be at liberty to institute their claims or complaints, in the first instance, by a regular suit before the local Munsif, or in the Zila Adálat, according as the suit may be cognizable in these Courts respectively. Parties having claims cognizable by Collectors, and not wishing summary trial, may in first instance bring regular suit.

31. *First.*—Whenever a regular suit may be instituted in a Civil Court, with a view to set aside or alter a summary judgment passed by a Collector, the proceedings held on the summary inquiry shall be called for by precept from the Court, and filed on the record of the case. On appeal against Collector's decision his proceedings to be on record.

Second.—Provided also, that no such suit shall be cognizable by, or referable to,[b] Munsif; and all Munsifs shall, in cases tried by them, be held and bound by the decisions passed, and records prepared, by Collectors or other Revenue-officers under the provisions of this Regulation, unless the same shall have been rescinded or altered by the Board, or by the zila or other similar or superior Court, on a regular suit.[c] No such appeal cognizable by, or referable to, any Munsif.

32. The Collectors shall transmit to the Boards such periodical reports of the causes decided by, or depending before, them as the Boards may direct, and the Boards will also furnish to Government such abstracts of those reports, and such reports in the cases received and determined by them in appeal, as the Governor General in Council shall from time to time require. Periodical reports by Collectors to Boards.

33. *First.*—It shall be competent to Collectors or other officers exercising the powers of Collectors to refer to arbitration any disputes cognizable by them under the provisions of this Regulation, as well as any questions or disputes of any kind respecting land or the tenures therein, or the rights depend- Collectors authorized to refer certain cases to arbitration.

[a] As to period for presenting appeals under this section, see Bengal Act No. III of 1868.

[b] The words "any register, Sadr Amín or" are repealed by Act No. XVI of 1874.

[c] So much of this clause as provides that suits of the description therein referred to shall not be cognizable by or referred to any munsif is repealed by Act No. XXV of 1837, section 2.

ent thereon, that may come before them, provided the parties consent to that mode of adjustment, and on award being made, to cause the same to be executed.

In referring cases to arbitration under the above provision, and in their general proceedings relative to such suits, the Collector shall be competent to vest in the arbitrators the same powers and authority in regard to the summoning and examination of witnesses, and the administration of oaths, and to enforce the orders passed by the arbitrators under such powers, in the same manner as the courts of judicature are empowered to do; and all awards made on such references shall, when confirmed by the Collector, have the same force and validity as a regular decree of the Adálat, and shall not be liable to be reversed or altered, unless the award shall be open to impeachment on the ground of corruption or gross partiality, or shall extend beyond the authority given by the submission of the parties; and such ground of impeachment shall be established in a regular suit in the zila, city or other superior Court wherein the case may be cognizable.

Force of awards passed on such reference.

Matter of arbitrament to be distinctly specified in Collector's proceedings.

Second.—In referring any dispute to arbitration, the Collector shall be careful to specify in his proceedings, and in the deed of arbitration to be executed by the parties, the precise matter submitted to the arbitrators; and if the award first made by the arbitrators shall not include all the points submitted to them, or shall be otherwise incomplete, it shall be competent to the Collector again to refer the matter to them, with directions to perfect their award.

Kánúngos and tahsíldárs may be employed as arbitrators.

Third.—The pargana kánúngos and tahsíldárs may be appointed arbitrators in any case referred to arbitration under the above rules; anything in the existing Regulations notwithstanding.[a]

Power of Collectors to interfere in cases of disputed possession.

34. *First.*—When a Collector or other officer exercising any of the powers vested in Collectors by the rules of this Regulation, relative to complaints of dispossession or disturbance of the possession of lands or premises, shall learn, either by a reference from the Magistrate, or by a report from any other public officer or otherwise, that any disputes exist within the tract placed under his jurisdiction, relative to any lands, premises, crops, orchards, pasture-grounds, fisheries, wells, water-courses, tanks, reservoirs or the like, likely to terminate in a breach of the peace, it shall and may be lawful for the Collector or other officer aforesaid to require the contending parties to attend in person or by representative at a stated time and place, and after investigating the case in the presence of the parties or their representatives, or such of them as may attend, or referring it to arbitration as above prescribed, to decide the case in the same manner as if it had been brought before him by the complaint of one of the parties;

[a] For additional rules respecting arbitration, see Regulation IX of 1833, sections 5—10.

provided also, that if the fact of previous lawful possession cannot be ascertained, it shall be competent to the Collector, subject to the orders and direction of the Board, to decide on the question of right, and to give possession to one of the contending parties, leaving the other party to contest the decision by a regular suit in Court; but no such decision shall be passed by any Collector until he shall have instituted a careful inquiry into the fact of possession, and the Board shall be careful to see that this restriction is observed; And to give possession to one of contending parties.

provided further, that in such cases it shall be competent to the Collector to attach the disputed lands, premises, &c., as aforesaid, and to appoint an officer to the management of the same, retaining in deposit the rents and produce or such portion thereof as may remain after discharging any public revenue demandable therefrom, with the charges of management, until one of the contending parties shall be placed in possession. Collector may attach disputed lands, &c.

Second.—Whenever any Magistrates or Joint Magistrates shall have before them any suit, complaint or information relative to any dispute regarding lands, premises, crops, watercourses or the like, which may appear likely to terminate in a breach of the peace, or which it may otherwise be desirable to bring to an immediate decision, it shall be the duty of such Magistrate or Joint Magistrate, in cases in which the Collector shall be vested with the cognizance of such actions, to certify the case to that officer, and the Collector will then forthwith proceed to investigate and determine the case under the rules above prescribed : Reference of disputes by Magistrates to Collector.

provided also, that in all cases of forcible dispossession or forcible disturbance of possession, the Collector shall invariably transmit to the Magistrate or Joint Magistrate a copy of the first proceeding held by him in the case, and also a copy of the rúbakárí containing his final award.[a]

Third.—The Collector shall in all such cases use every proper means for inducing the parties to refer their disputes to arbitration, in like manner as the Díwání Courts are directed to do. Collector to encourage arbitration.

35. Whenever the term "Board of Revenue" or "Board of Commissioners" may occur in this or any other Regulation, the same shall be held and considered to apply to any Board, committee or commission, and to any member of such Board, committee or commission, that may be vested by the Governor General in Council with the powers and authority of the Board of Revenue, save and except in so far as may be otherwise specially declared and provided. "Board of Revenue." "Board of Commissioners."

In like manner, all rules in this or any other Regulation, whereby any duties or powers may be prescribed for, or vested in, Collectors, shall be held and considered to be equally applicable to any officer exercising the authority of Collector under the orders or with the sanction of the Governor General in Council. Rules regarding Collectors to apply to officers exercising authority of Collector.

[a] See Regulation IV of 1828, section 2, clause 4.

REGULATION XI OF 1822.

Passed on the 22nd of November 1822.

A Regulation for modifying and explaining the existing Regulations relative to the sale of land for the recovery of arrears of revenue; for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice; and for making further provision for the conduct of the Revenue-officers in certain cases.[a]

1 to 35.—[*Repealed by Act No. XII of 1841, except so far as section 2 repeals other Regulations or parts thereof.*]

Rules for khás management applied to purchases by Government.

36. If a Collector shall at any time, being so instructed by either the Government or the Board, purchase on account of Government an estate exposed to sale for the recovery of arrears of revenue, the rules applicable to the management of ordinary málguzárí maháls held khás or farmed shall be considered applicable to such estate, and also to all other estates the property of Government, according as they may be held khás or let in farm.

37.—[*Repealed by Act No. XII of 1841.*]

Government not liable for errors of Courts.

38. It is hereby declared and enacted, that Government is not and shall not be held liable for any error or irregularity which may have occurred, or shall occur, in any order, proceeding or decree of any court of judicature, whether a revenue or other officer of Government may or may not have been, or shall or shall not be, employed in giving effect to the order, proceeding or decree deemed to be erroneous or irregular. Nor shall any officer of Government be held liable for anything done or suffered in conformity with an order, proceeding or decree of a Court as aforesaid; and if any person or persons shall sue Government or any officer of Government for anything done or suffered under an order, proceeding or decree of Court as aforesaid, such person or persons shall be nonsuited, with costs.

The same principle is and shall be held applicable to all orders, proceedings or decrees made, held or passed by any public officer, in virtue of powers vested in him for the judicial cognizance of any pleas, suits, complaints or informations whatsoever, unless otherwise specially provided.

[a] Sections 36 and 38 declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

REGULATION VI OF 1823.

Passed on the 10th of July 1823.

A Regulation for authorizing the institution of summary suits to enforce the execution of certain written engagements for the cultivation and delivery of the indigo-plant, and for declaring certain principles in regard to the same.[a]

Preamble.

1. THE poverty of the lower orders in India, and particularly of those employed in agriculture, occasions the general use of borrowed capital for the production of the chief articles of trade and consumption.

The capitalist advances his money, and sometimes the seed likewise, upon a contract to receive the produce of a defined quantity of land, either at a certain fixed price, or at rates to be subsequently determined with reference to the market-price at a specified season; and this system is understood generally to prevail in the Province of Bengal in the cultivation of the plant from which the indigo-dye is extracted.

According to the existing Regulations, if the contracting raiyat should fail to cultivate the land in the manner specified, or, having so cultivated the land, should sell the produce to another, or otherwise defraud his creditor, and fail to execute his contract by delivery of the stipulated article, the person with whom he has so contracted has no other remedy than a regular action for the recovery of the penalty conditioned in the agreement.

It is usual for the Courts of Justice, in decreeing such causes, to award such limited penalty as may, in each instance, appear to be a fair compensation to the person making the advances, for the non-employment of his capital.

In the absence, however, of any rule for the regulation of the discretion thus assumed, much confusion has arisen from the conflicting opinions and judgments of the several judicial officers, as to the extent of penalty recoverable on agreements of this nature.

Under the rules for imposing a stamp-duty, it is provided that all deeds and agreements shall be written on paper bearing a certain stamp, proportioned "to the value of the property transferred, or otherwise affected."

But in agreements of the kind above described, it is not clear whether the amount of the stamp ought to be fixed with reference to the sum actually advanced, or to the penalty or penalties which may be specified as eventually

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

exigible on the failure of the contractor; and it is of great importance to the parties that this point should be determined so as to prevent the risk of *bonâ fide* deeds being rendered void, in consequence of any inaccuracy in the description of stamp-paper employed in drawing up the agreement.

It seems reasonable, also, that the person who advances seed and capital, or capital only, for the expenses of cultivation on a defined parcel of land, should be considered to possess a lien and interest in the indigo-plant produced on that land, when so stipulated in a written engagement between the parties, and especially in cases in which such written engagement may have been duly registered, and that it should not be in the power of a raiyat, who has already conditioned for the delivery of the produce of his land to one person, to break the condition by a clandestine and fraudulent transfer of such produce to another.

The system at present in force provides, as above observed, no other remedy for parties injured by this dishonest practice than by a regular action in the civil Court.

The difficulty and delay of obtaining redress by that course have not unfrequently led to acts of violence, and even to serious affrays, and the more frequent occurrence of such affrays is to be apprehended in consequence of the eager competition which now prevails amongst the indigo-manufacturers in some parts of Bengal, arising from the unusually high price of indigo.

The Governor General in Council has in consequence judged it expedient to declare the principles on which the points above stated shall be settled, and to provide for the more prompt adjustment of disputes, and enforcement of contracts of the nature above specified; and the following rules have accordingly been passed, to take effect in the several districts comprised within the Province of Bengal from the date of their promulgation.

When persons making advances for cultivation of indigo-plant, on certain land, have lien on, or interest in, its produce.

2. If any person shall have given advances to a raiyat, or other cultivator of the soil, under a written engagement, stipulating for the cultivation of indigo-plant on a portion of land of certain defined limits, and for the delivery of the produce to himself, or at a specified factory or place, such person shall be considered to have a lien or interest in the indigo-plant produced on such land, and shall be entitled to avail himself of the process hereinafter provided for the protection of his interests, and for the due execution of the conditions of the contract.

Such person how to proceed, when he has just reason to believe that raiyat will

3. *First.*—If any person, who may have made advances on conditions of the nature above described, shall have just reason to believe that an individual under engagement with him is evading or is about to evade the execution of his contract, by making away with and disposing of the produce otherwise than as stipulated, or that he has engaged secretly or openly to supply

the same to another, it shall be competent to such person to present a petition of complaint to the Zila Judge within whose local jurisdiction the land stipulated to be cultivated with the indigo-plant may be situated, filing with the same the original deed of engagement by which the produce may be assigned and engaged to be delivered to himself or at his factory, and certifying in his petition that such deed was voluntarily and *bonâ fide* executed by the individual complained against.

dispose of produce otherwise than stipulated.

Second.—On such petition and original deed of engagement being filed, a summons, or talab chiṭṭhí, shall be immediately issued through the Názir in the usual form, requiring the individual named in the petition to attend and answer to the complaint, either in person or by an authorized agent, within such specified period as may in each instance appear reasonable, and which period shall in no case exceed twenty days.

Summons for attendance of defendant.

Third.—The officer entrusted with the execution of the process shall also be instructed to affix a copy of the summons in the village kachahrí or other place of public resort, and to erect a bamboo on the specific parcel of ground on account of which the claim may have been preferred, and which it shall be the duty of the plaintiff or his agent to point out.

Summons how served,

By these means sufficient public notice of the claim will be given to enable persons desirous of contesting the plaintiff's right, or of establishing a prior right to the produce of the land, to appear either in person or by an authorized agent before the Court for that purpose, and the failure so to attend, before the summary decision be passed, will be held to bar the claim of any third party founded on any contract for the produce of the land in question, unless it be established by a regular suit.

and public notice of claim how given.

Fourth.—If the officer serving the process shall not be able to execute it on the person of the defendant, he shall nevertheless publish the claim in the manner above directed, and if the defendant shall not appear to answer to the complaint within the period specified in the summons, and no other claim be preferred in bar of that of the plaintiff, the Judge or other officer shall, after taking evidence to establish the deed and other allegations of the plaintiff, proceed to the adjudication of the claim, in the same manner as if the defendant had personally appeared.

On non-appearance of defendant or other claimants, evidence to be taken, and case decided *ex parte*.

Fifth.—If the defendant or his authorized agent should attend within the period specified, and should deny the execution of the deed of engagement filed by the complainant, proof of the same shall be taken; and if its voluntary execution be established to the satisfaction of the Court or other tribunal trying the case, and no preferable claim be established by a third party, a summary award shall be made, adjudging to the plaintiff the right of receiving the crop according to the terms of the agreement.

In what cases award shall be passed, adjudging plaintiff's right to produce.

The same principle shall be applied if the engagement be admitted, and no satisfactory reason be shown why the defendant should not be held to the performance of his contract.

If claim be not established, plaintiff to pay costs and compensation to defendant.

Sixth.—If it be proved that the engagement was not duly and voluntarily executed by the defendant, or if it should appear that the proceeding is otherwise litigious and oppressive, and the claim unfounded, or that the plaintiff had no sufficient cause to warrant his application to the Court, the complaint shall be dismissed, and the plaintiff shall be made liable to the payment of costs, and such reasonable sum in addition as may seem to the Judge or other officer trying the case a proper compensation to the defendant for any trouble and annoyance to which he may have been subjected.

Notice to third parties in what cases, and their claims how investigated.

Seventh.—If it should appear in the course of the inquiry, that the defendant is under engagement for the same land to a third party, notice shall immediately be issued for that party to appear and plead, either in person or by vakíl; and if such person or any third party shall, previously to the decision of the case, come forward and produce a similar deed of engagement, stipulating for the produce of the same portion of land, the Judge or other officer trying the case shall, after such summary investigation as may be necessary, determine whether either of the parties have any just claim to the produce of the land, and if so, which of them may have the prior and better claim; a preference will of course be given to engagements duly registered.

The result of such investigation shall be recorded, and a decree passed adjudging the question of right between the parties.

Defendant not to be subjected to unnecessary detention.

Eighth.—No defendant who may attend under the process described in this section shall be confined in jail, or be in any manner detained, longer than may suffice to take his answer to the claim, and to obtain from him such further explanations as the nature of the answer may suggest.

In what cases order may issue to deliver plant to a party, before summary inquiry completed.

Ninth.[a]—If, pending the summary inquiry in the manner above directed, it shall appear that the plant on the ground is in a state fit to be cut, and will be injured or destroyed if not cut, it shall in such case be competent to the Judge or other officer trying the case to pass an order for the delivery of the plant to either of the parties, provided that the said party consents and engages to pay to the other claimant (if the summary award should be ultimately in favour of the latter) a specific pecuniary compensation;

the amount of such compensation shall be fixed by the Judge or other person trying the case, in communication with the parties, and shall be regulated with reference to the estimated produce of the ground, and to the

[a] See Act No. X of 1836, section

probable value of such produce when manufactured; and the amount, when so fixed, shall be carefully recorded on the proceedings.[a]

4. *First.*—Any person in whose favour a summary award shall have been passed for the produce of any defined spot of land, shall be entitled to place a watch over the same, and to prevent the cutting and removal of the plant in any manner contrary to the stipulations of his agreement;

Authority to watch fields and to prevent removal of plant, given to parties in certain circumstances.

and in the event of any attempt being made to cut or remove the plant, it shall be competent to the person holding the decree to apply to the nearest Police-dárogha, and to claim from him the assistance of the Police in preventing such removal;

it shall, moreover, be the duty of the Police-officers and of all other officers, on such a decree being exhibited, to aid the person in whose favour it may have been passed to the utmost of their power.

Second.—In order that the foregoing rule may not operate to the prejudice of the landholders, who, by the existing Regulations, are authorized to attach the crops for the realization of rents justly due to them, it is hereby provided, that whenever any manufacturer, who may have obtained an award under the foregoing rules, may cause the plant to be cut and taken away, he shall be held responsible, conjointly with the raiyat, for any arrear of rent which may have been due on account of the specific parcel of ground from which the indigo-plant may have been taken.

Security for rent due to landholders, how provided.

5. *First.*—In cases in which a raiyat who may have received advances and entered into written agreements for the cultivation and delivery of indigo-plant, in the manner indicated in this Regulation, shall have failed to cultivate the ground specified, or, having cultivated it, shall have failed or refused to complete his engagement, or shall have sold, made away with, or transferred the produce to another person, the party with whom such agreement was first made shall be at liberty to institute, at his option, either a summary or a regular suit.

Suits by parties injured by breach of contract in regard to cultivation and delivery of indigo-plant.

Second.—If the summary process be adopted, and the cause be decided in favour of the plaintiff, the defendant shall be subjected to the payment of the amount of the advances actually received by him, with interest on the same, and the costs of the summary process.

Judgment to what extent in summary suits.

Third.—[*Repealed by Act No. X of 1836.*]

Fourth.—If no fraud or dishonest dealing be established, and the failure of a raiyat or other contractor to execute the stipulations of his engagement by the delivery of indigo-plant in the manner stipulated be owing to accident, or to any cause not implying fraud or dishonesty, the penalty to be adjudged

Penalty in regular suits, where breach of contract not ascribable to fraud or dishonesty.

[a] See Act No. X of 1836, section 4.

against a contractor shall not exceed three times the sum advanced as the consideration for executing the deed, including interest.

Investigations how and by whom conducted.

6. Investigations under this Regulation shall be conducted according to the form and in the manner prescribed for the conduct of suits for arrears of rent: it shall be competent to any person whose claim under a deed of engagement for the cultivation and delivery of indigo-plant may have been set aside, or who may be otherwise dissatisfied with the decision passed on a[n] investigation under the foregoing provisions, to institute a regular suit for the recovery of the penalty stipulated in the deed of engagement, or for the establishment of any other claim or interest to which he may deem himself entitled.

REGULATION VII OF 1823.

Passed on the 30th of October 1823.

A Regulation for prohibiting loans by covenanted civil servants from persons subject to their official authority and influence.[a]

Preamble.

1. WHEREAS by the existing Regulations all covenanted civil servants of the Company, employed in the judicial and revenue departments of the service, are prohibited from lending money, directly or indirectly, to any proprietor or farmer of land, dependent taluqdár, under-farmer or raiyat, or their sureties; and whereas it is equally necessary to prohibit the public officers from borrowing money from persons subject to their official authority and influence, the following rules have been enacted by the Governor General in Council, and are to be in force from the date of their promulgation throughout the Provinces immediately subject to this Presidency.

Civil servants prohibited from borrowing money from Native officers under their authority, &c.

2. *First.*—All covenanted civil servants, in whatever department of the public service they may be employed, are henceforward prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any Native officer under their authority, or under the authority of any of their subordinate functionaries, or from or to the known surety, agent, relation, connection or dependant of any such Native officer, or from or to any person of whom such Native officer may be known to be or to have been the servant, agent, surety or dependant.

And from other persons

Second.—In like manner, and under the like penalty, all officers of Government, being covenanted civil servants, are henceforward prohibited from

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

borrowing money from, or in any way incurring debt to, any manager, guardian, executor, ámín, sazáwal, gumáshta, farmer, mutawalli or other person, who may in any way be officially accountable to them, or from and to the known surety, agent, relation, connection or dependant of such person. officially accountable to them.

3. All Judges of Zila Courts, all Magistrates, Joint Magistrates, Registers and Assistants to Magistrates, all Collectors and Deputy Collectors of the land-revenue, all Assistants to such Collectors or other officers, exercising the powers of such Collector, are prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any zamíndár, taluqdár, raiyat or other person possessing real property, or residing in, or having a commercial establishment within, the city, district or division to which their authority may extend. Certain officers prohibited from incurring debt to zamíndárs and others residing, or having property, within their districts.

4. All persons are prohibited from lending money, or otherwise becoming in any way creditor, to any officer of Government, being a covenanted civil servant, in contravention of the above rules: and any person lending money, or in any way becoming creditor, to any such public officer in breach of this prohibition, shall forfeit to Government a sum equal to the amount for which he shall have so illegally become creditor. Penalty for lending money to civil servants.

5.—[*Repealed by Act No. XVI of 1874.*]

6. In like manner, if any covenanted servant, who may be hereafter appointed to any office, shall at the time of such appointment be indebted to any person with whom it would be illegal for him to contract a loan, while holding such office, it shall be incumbent on such servant, before entering on the duties of the office, to make known the circumstance to the Governor General in Council; and failing to do so, he shall be subject to the same penalty as if the debt had been contracted subsequently to his being appointed to the said office. Penalty for officers receiving new appointments, if indebted to individuals contrary to above rules, omitting to report.

7. Any Native causing himself to be appointed to any office in opposition to the provisions of Regulation XXI. 1814,[a] as hereinbefore extended, or in any way knowingly accepting office in contravention thereof, shall forfeit to Government a sum equal to ten times the yearly salary or allowances attached to the situation to which he may be appointed. Penalty on Natives knowingly taking office in contravention of above rules.

8. Suits for the recovery of penalties incurred under this Regulation shall and may be instituted under the special instructions of the Governor General in Council, and shall be conducted by the Superintendent and Remembrancer of Legal Affairs, or by such other officer as Government may nominate for that purpose; Suits for recovery of penalties.

[a] Repealed by Act No. XXIX of 1871.

such suit shall be instituted in the Court of the division within which the transaction may have taken place, or the lender may reside, or may possess real or personal property.

An appeal shall lie from judgments passed in such cases, in like manner as from other judgments passed in original suits; and the judgments shall be enforced under the provisions for the execution of other decrees of the Civil Courts.

REGULATION VI OF 1825.

Passed on the 4th of April 1825.

A Regulation for rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories.[a]

Preamble.

1. WHEREAS it is enacted in the first clause of section 3, Regulation XI. 1806, that on receiving the notification mentioned in the preceding section, relative to a body of troops about to proceed, by land or by water, through any part of the Company's territories, the Collector of the district shall immediately issue the necessary orders to the landholders, farmers, tahsíldárs or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nálás as may intersect their march without impediment or delay; it being at the same time further directed, in the second clause of the section referred to, that the supplies so furnished shall be paid for by the persons receiving the same at the current bázár-prices of the place at which they may be provided, and that the expense incurred for crossing the troops and their baggage over rivers or nálás, after being duly ascertained, will be paid by Government;

and whereas experience has shown the necessity of enabling the Collectors or other public officers acting in that capacity, to enforce their orders in the cases above-mentioned, by imposing a fine upon any landholder, tahsíldár or other person in the possession or management of land, who, after receiving the requisition issued in pursuance of the section above cited, may be proved to have wilfully disobeyed or neglected the same; the Governor General in

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

Council has therefore enacted the following rules, to be in force as soon as promulgated in all the Provinces immediately subject to the Presidency of Fort William.

Penalty for zamíndárs not providing supplies for troops, &c.

2. Any landholder, farmer, tahsíldár or other person in the possession or management of land, who may have been duly required by a Collector of the land-revenue (or any public officer acting in that capacity), in pursuance of section 3, Regulation XI. 1806, to provide supplies for a body of troops about to proceed by land or water through any part of the British territories, or to make preparations of boats, temporary bridges or otherwise, for enabling the troops to cross rivers or nálás intersecting their march; and after the receipt of such requisition shall wilfully disobey or neglect the same, or shall without sufficient cause fail to exert himself for the due execution of the duty so assigned to him, shall, on proof of such failure, neglect or disobedience, to the satisfaction of the Collector (or other officer acting in that capacity) by whom the order may have been issued, or of his successor in the same office, be liable to a fine proportionate to the defaulter's condition in life and the circumstances of the case, in such amount as the Collector or other officer, with due regard to these considerations, may judge it proper to impose, so that the fine shall not in any case exceed the sum of one thousand sikká rupees.

Collector to make summary inquiry.

3. The Collector or other officer acting in that capacity, who may exercise the powers vested in him by this Regulation, shall previously make a summary inquiry, in the presence of the party charged with disobeying or neglecting the order issued to him, or of his representative, if, on being duly summoned, he shall attend in person or by vakíl for that purpose;

if he shall fail to attend, either in person or by vakíl, the summary inquiry shall be conducted *ex parte*, and the Collector shall record upon his proceedings the whole of the evidence obtained in proof of the neglect or disobedience for which a fine may be imposed.

Fine how levied.

4. The Collector or other officer who may adjudge a fine under this Regulation, shall be competent to levy the amount by the same process as is authorized for the recovery of arrears of the public revenue.

Proviso as to appeal.

Provided that if an appeal be preferred from his decision, within six weeks from the date of it, to the Board of Revenue in whose jurisdiction the district may be situate, and sufficient security be tendered for performing the judgment of the Board upon the appeal, the Collector shall stay the execution of his order for levying the fine imposed by him, until he shall receive the final order of the Board.

Petition of appeal against fine.

5. Appeals from the orders of Collectors or other public officers, adjudging fines under this Regulation, may be preferred either immediately to the

proper Board, or through the officer by whom the fine may have been adjudged; and, on admission of the appeal, the whole of the proceedings in the case shall be transmitted to the Board.

Limitation of appeal.

But no such appeal shall be receivable after the expiration of six weeks from the date of the judgment, without proof of sufficient reason for the delay, to the satisfaction of the Board by whom the case may be cognizable.

REGULATION IX OF 1825.

Passed on the 5th of May 1825.

A Regulation for extending the operation of Regulation VII. 1822; for authorizing the Revenue-authorities to let in farm estates under temporary leases, on the default of the málguzárs, or to hold the same khás for a term of years; for modifying and adding to the rules contained in Regulation II. 1819; and for making certain other amendments in the existing Regulations.[a]

Preamble.

1. WHEREAS the provisions of Regulation VII. 1822[b] are in force only within the Ceded and Conquered Provinces, in the district of Katak, and in the pargana of Paṭáspur and its dependencies;

and whereas there are within the other Provinces belonging to this Presidency various mahál and tracts for which a permanent settlement has not yet been concluded, and it appears to be advisable that the Revenue-authorities should be vested, in regard to such mahál and tracts, with the same powers as belong to the like officers within the Ceded and Conquered Provinces;

and whereas the principle of the rules contained in the said Regulation, relative to lands held free of assessment, or at a mukarrarí jama under special grants, is equally applicable to such tenures in all parts of the country; and it appears to be likewise expedient to make provision for the occasional exercise, by the Revenue-officers in the Lower Provinces, of the powers specified in the said Regulation, for the summary trial of certain suits between individuals, subject as therein provided to an appeal to the Adálat by a regular suit;

and whereas a frequent recourse to the sale of lands for the recovery of arrears of revenue in districts of which the assessment has not been fixed in

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

[b] See *supra*, p. 178.

perpetuity being inexpedient, it appears to be necessary and proper that the Revenue-authorities should be empowered to let in farm for a term of years the estates of defaulters under temporary leases, or to hold the same khás for the purpose of making a raiyatwár settlement, where that measure may be deemed advisable; and whereas it has appeared to be expedient to modify and to add to the provisions contained in Regulation II. 1819[a]; and whereas the rules prohibiting the collection of sáir duties, and the provision contained in section 39, Regulation IX. 1810,[b] having been considered applicable to several items of siwáí collections or cesses levied by the málguzárs and others for local purposes, and according to ancient usage, which it would be injurious to abolish, it appears to be expedient to provide for the continuance of such collections when sanctioned by Government, the following rules have been enacted, to be in force, from the date of their promulgation, within the Provinces belonging to the Presidency of Fort William.

Provisions of Regulation VII. 1822 extended to lands not within limits of permanently settled estates.

2. *First.*—The provisions contained in clause sixth, section 2, and in the thirty-three following sections of Regulation VII. 1822,[c] are hereby extended to all lands (including jágírs, mukarrarís and other tenures held free of assessment or at a quit-rent under special grant) not included within the limits of estates for which a permanent settlement has been concluded in the manner prescribed by Regulation VIII. 1793,[d] and Regulations II.[e] and XXII.[f] 1795, as far as the same may be applicable.

To be in force in estates held khás;

Second.—The said provisions shall likewise be in force in all estates which may now or hereafter be held khás, during the period for which they may be so managed.

and applicable to Sundarbans, &c.

Third.—The provisions aforesaid shall also apply to the Sundarbans, the hill lands of Bhágalpur, and other extensive forests and wastes, not included within the limits of parganas, mauzas or other revenue-divisions, specified at the time of settlement as belonging to the mahál then assessed; as well as to all estates bordering on such forests or wastes.

Power to vest Collector, &c., with powers specified in section 20, Regulation VII of 1822.

3. It shall be competent to the Governor General in Council to vest any Collector or other officer exercising the powers of Collector, within the Provinces of Bengal, Bihár, Orissa and Benares, with the several powers specified in section 20, Regulation VII. 1822,[g] in the manner specified in the second clause of that section, within such local limits as may, from time to time, appear to be advisable; and the several provisions contained in section 21 and the fourteen following sections shall apply to the several parganas or other

[a] See *supra*, p. 141. [b] Repealed by Act No. VI of 1863. [c, g] See *supra*, p. 178.
[d] See *supra*, p. 19. [e] Repealed by Act No. XIX of 1873. [f] Repealed by Act No. VIII of 1868.

local divisions so placed under the jurisdiction of the Collector or other officer aforesaid.

Procedure when arrear of revenue on account of mahálsnot permanently assessed is not paid within one month after due date, and objections appear to public sale.

4. Whenever an arrear of revenue shall accrue on account of any mahál for which an engagement may have been taken by the proprietors or persons recorded as proprietors, not being an estate of which the assessment has been fixed in perpetuity, and the málguzárs shall fail to discharge the same within one month of the date on which it became due, then, if there shall appear to be any objection to the sale of the estate, and the arrears cannot otherwise be recovered (on which points the decision of the Revenue-authorities is to be held conclusive), it shall be competent to the Collector or other officer exercising the powers of Collector, with the sanction of the Board, and subject to the orders of Government, to annul the existing engagements with the málguzárs, and to let the mahál in farm for such period, not exceeding fifteen years, as the Governor General in Council may appoint, or to hold the mahál under khás management for a like period.

In such cases, if the mahál shall yield a higher jama than that for which the málguzárs may have engaged, the excess shall in the first place be appropriated to the liquidation of the arrear due on account of it, or such portion thereof as the farmer may not have separately agreed to discharge or as may not otherwise have been recovered, and, out of any surplus remaining, the málguzárs shall receive such málikána, not being less than five per cent. nor more than ten per cent. on the assessment of the last year of their engagement, as the Governor General in Council may direct.

Modification of Regulation II. 1819.

5.[a] *First.*—The following rules are enacted in modification of sections 5, 6, 8, 10, 11, 13, 15, 22 and 30 of Regulation II. 1819.

Collector making settlement to issue notification and require appearance of persons holding lands free of assessment.

Second.—Whenever a Collector or other officer exercising the powers of Collector shall visit, or be about to visit, any mahál for the purpose of making a settlement in the manner prescribed in Regulation VII. 1822,[b] it shall be competent to him, by a notification to be stuck up in some conspicuous place within such mahál, and each village thereof, if consisting of several villages, to require all persons holding lands free of assessment or at a fixed jama, within or adjoining to the village or villages in which the lands of such mahál or any part thereof may be situate, to appear before him either in person or by vakíl within a reasonable time, not being less than one month from the date of such notification, at such place within the mahál as he may select for holding his office, and to attend him from day to day while he may continue within the mahál, with all sanads or other writings in virtue of which they may

[a] See Regulation III of 1828, section 2.

[b] See *supra*, p. 178.

possess the lands, or under which the lands may have been, or may be claimed to be, held free of assessment or at a fixed jama, together with any evidence they may desire to have taken in support of their claims.

May cause lands to be measured.

Third.—It shall likewise be competent to Collectors and other officers aforesaid, when engaged in the settlement of any mahál under the rules of the Regulation above-mentioned or preparatory thereto, to measure or cause to be measured, without a previous reference to the Board of Revenue, all lands, whether málguzárí or lákhiráj, belonging or adjoining to the village or villages in which such mahál or any part thereof may be situated.

To give public notice one day previous to that on which it is intended to hold proceedings.

Fourth.—When the Collector or other officer aforesaid shall have commenced the settlement of any mahál in regard to which he may have issued a notification as aforesaid, and shall propose to hear the claims of persons holding lands free of assessment or at a fixed jama, and to receive their sanads and other writings as aforesaid or any of them, the period fixed in the notification for the attendance of such parties being arrived, he shall, on the day preceding that on which he may intend to hold proceedings in the said cases or any of them, notify such intention by an ishtahár stuck up in his office and in some place open to the public within the mahál.

Procedure on failure of persons to attend after notice.

Fifth.—If any person holding land free of assessment or at a fixed jama as aforesaid shall fail to attend either in person or by vakíl, after notice being given in the manner above prescribed, the Collector shall be competent to proceed *ex parte* to investigate the title of such party to hold the land in his possession free of assessment, and with the sanction of the Board of Revenue to resume the said lands, if they appear to be held on an invalid title.

Nor shall any person defaulting as above, or neglecting to appear and give answer when required to do so, in the manner prescribed in Regulation II, 1819,[a] be entitled to stay the resumption and assessment of his lands under the rule contained in section 22 of that Regulation.

Provided further, that the rule contained in clause second, section 13, Regulation II. 1819, shall be and be held applicable to such persons, as well as to persons who may appear when summoned under the provisions of that Regulation, or in the manner hereinbefore provided.

Collector may either complete investigation of claims or limit proceedings to certain points.

Sixth.—It shall be competent to Collectors and other officers making settlements as aforesaid, either to complete the investigation of the claims of persons holding land free of assessment or at a fixed jama, under the rules of the fifteenth and following sections of Regulation II. 1819, with the modifications hereinafter provided, during the progress of the settlement, or to limit their proceedings to the ascertainment of the land actually held under

[a] See *supra*, p. 141.

such tenures, and the record of the title-deeds produced by the parties, postponing the further investigation of the case to a future period.

When any Collector or other officer may postpone the investigation of any case as aforesaid, he shall at the same time notify to the party the time and place at which the further investigation is to be held, or if circumstances prevent him from doing so, he shall, before resuming the inquiry, give the party one month's notice to attend, and on the failure of any party to attend when so warned, the Collector or other officer aforesaid shall be competent to proceed to try the case *ex parte*, and, with the sanction of the Board, to resume and assess the lands.

What provisions to regulate investigation of claims to lákhiráj lands.

Seventh.—Collectors or other officers who may proceed to investigate claims to lákhiráj lands during the progress of a settlement, shall follow the rules of the fifteenth and following sections of Regulation II. 1819,[a] in all cases wherein the parties may attend and deny the liability of their lands to assessment, subject to the modifications hereinafter provided.

Bar to resumption of lands without sanction.

Procedure by Board.

Eighth.—No lands shall be resumed by a Collector, even though the parties may confess that they are liable to assessment, without the sanction of the Board of Revenue, save and except as hereinafter provided; but on such confession duly attested, which will of course supersede the necessity of any further inquiry, it shall be competent to the Board forthwith to direct the lands to be assessed, unless the same be held by village or zamíndárí servants in lieu of wages, which shall not be resumed without the sanction of Government.

Provided also, that in all cases wherein it may appear to the Board that the resumption of lands held free of assessment would occasion serious distress to the holders, it shall be their duty to submit a report of the circumstances to the Governor General in Council.

Regulations applied to investigations by Collectors.

Ninth.—The provisions of clause first, section 23, section 25 and section 28, Regulation VII. 1822,[b] shall be applicable to cases investigated by Collectors, under the rules of Regulation II. 1819 or under the provisions of this Regulation.[c]

Stamped paper not necessary.

Tenth.—It shall not be necessary to use stamped paper for the proceedings held or exhibits filed before the Revenue-authorities in cases originating with a Collector or other officer of Government claiming to assess land held free of assessment; but the said Authorities are authorized in the said cases, as in all

Award of charges to witnesses.

[a] See *supra*, p. 141.

[b] See *supra*, p. 178.

[c] So much of this clause as provides that section 25 of Regulation VII of 1822, shall be applicable to cases investigated by Collectors under the rules of Regulation II of 1819, or under this Regulation, is repealed as to the Lower Provinces by Act No. XX of 1865.

other cases wherein they may exercise judicial powers under the provisions of the existing Regulations, to award to witnesses their reasonable charges, and to levy the same, as well as all costs adjudged by them, by the process in force for the recovery of arrears of the Government revenue.

Procedure for persons claiming to hold lands revenue-free.

Eleventh.—Persons claiming to hold lands exempt from revenue shall, with their petitions of plaint, deliver to the Collector or other officer to whom the same may be preferred all sanads and other writings on which their claim may be founded; and shall insert in the said petition a full specification of the several particulars required to be registered by the rules in force relative to the registry of rent-free tenures, and of the grounds on which their claim is founded.

Investigation.

If the claim shall involve only the interests of Government, the Collector shall proceed without delay to investigate the case, giving, however, eight days' previous notice to the party of the day on which he may propose to bring it to a hearing in the mode prescribed for the civil Courts.

If the claim shall be against any individual singly or jointly with Government, the Collector shall serve him with a notice containing a statement of the demand, and requiring his attendance in person or by vakíl duly authorized, within the period of one month, with any papers or evidence he may desire to produce in denial of the claim; and on the appearance of such defendant, the Collector, after allowing him to inspect and examine the claimant's petition of plaint, and the writings therein referred to, shall call upon him to deliver, within the period of seven days, a statement of the objections he may desire to urge against the claim.

Pleadings.

In such cases no other pleadings shall be required from the parties than a plaint and answer, but it shall and may be lawful for Collectors to receive and record such subsidiary pleadings as may appear requisite for the elucidation of the merits of the claim.

Collectors shall proceed to investigate every such case as soon as possible after the answer of the defendant shall be received; giving, however, as aforesaid, eight days' previous notice to the parties, of the day on which he may propose to bring it to a hearing.

Summary proceedings.

Provided that, in cases wherein the parties concerned or their authorized representatives shall desire or consent (the same being signified in a written petition or ikrárnáma to be filed with the proceedings) to have an immediate decision, whether the case shall originate in a claim on behalf of Government, or in the suit of an individual, and whether the proceedings of the Collector shall be held under the provisions of Regulation II. 1819,[a] or under

[a] See *supra*, p. 141.

those of this or any other Regulation touching the matter, it shall be competent to the Collector to proceed forthwith to the investigation and decision of the case, without issuing any formal summons or notice.

Procedure as to land appearing to belong to Government and no person *bonâ fide* in possession.

Twelfth.—Whenever a Collector or other officer exercising the powers of Collector shall be of opinion that any tract of land belongs to Government, and that no individual has *bonâ fide* possession thereof, it shall be competent to him, by a notification to be stuck up in his kachahrí, in the Zila Court, and in the kachahrí of the kánúngo, munsif or thánádár to whose jurisdiction the land in question may belong or adjoin, to require all claimants to the same to appear before him within a reasonable time, to be fixed by the Board of Revenue, not being less than six weeks from the date of such notification; and on the appearance of such claimants, to proceed to investigate their claims in the manner prescribed by Regulation II. 1819,[a] for investigations relative to the liability of lands to be assessed as herein modified.

Provided further, that if the Collector or other officer aforesaid shall decide that none of the claimants have *bonâ fide* possession of the lands in question, and his decision shall be affirmed by the Board of Revenue, the said lands shall be at the disposal of Government until the same shall be adjudged to be private property by a decree of Court on a regular suit.

Provided also, that all such suits, if preferred by one of the claimants before the Collector, shall be dismissed with costs, unless instituted within six weeks of the date on which the Board may affirm the decision of that officer, and that the rule contained in clause second, section 13, Regulation II. 1819,[b] shall be strictly applied to such suits: nor shall any such suit be admitted on the part of any person who may not have appeared before the Collector pursuant to notice, unless he shall be able to show good and sufficient cause for his non-appearance and shall apply for permission to sue within six weeks of his being informed of the Board's decision: provided further, that if the party shall not prosecute his suit within six weeks of being permitted to sue, the suit shall be dismissed with costs.

Power to vest Collector, deputed to hold local inquiry within mahál, with same powers in regard to lands held free of assessment in villages adjoining mahál.

6. It shall be competent to the Governor General in Council, by an Order in Council, to vest any Collector or other officer who may be deputed to hold a local inquiry within the limits of any mahál with the same powers and authority in regard to all lands held free of assessment within or adjoining to the village or villages in which the lands of such mahál or any part thereof may be situated; and for the investigation of all claims touching such lands as by the foregoing provisions are vested in Collectors making settlements in the manner prescribed by Regulation VII. 1822;[c] and also from time to time to

a, b See *supra*, p. 141. c See *supra*, p. 178.

depute Collectors or other officers aforesaid, for the purpose of ascertaining, recording or investigating the said claims in the manner above prescribed.

Lands held free of assessment to be specified in proceedings.

7. The particulars of all lands held free of assessment within all villages and maháls of which the settlement may be made under the provisions of Regulation VII. 1822, shall be fully recorded in the proceedings of the Collector or other officer making the settlement.

Saving of certain Regulations.

8. Nothing contained in Regulation II. 1819[a] or in any other Regulation in force, shall affect, or be considered to affect, the provisions contained in section 10, Regulation XIX. 1793,[b] section 11, Regulation XXXI. 1803,[c] and in the corresponding enactments applicable to Benares and the Conquered Provinces, relative to grants illegally made subsequently to the dates specified in the said rules respectively: and in all cases in which it shall be established to the satisfaction of the Revenue-authorities that any lands now held free of assessment were subject to the payment of the revenue at the dates aforesaid or subsequently thereto, and that they have not been thereafter exempted from the payment of revenue under the authority of the Governor General in Council, nor adjudged to be exempted from payment of revenue under a regular decree of Court, it shall and may be lawful for the said Authorities forthwith to resume and assess the said lands; save and except in cases wherein the revenue of the same may belong to a zamíndár, taluqdár or other málguzár with whom a permanent settlement has been concluded; nor shall the provisions of section 22, Regulation II. 1819,[d] apply to such cases.

Rules relative to the abolition of the sáir duties, &c., applicable to what cesses.

9. It is hereby declared and enacted that the rules relative to the abolition of sáir duties, and the provision contained in section 39, Regulation IX. 1810[e] are not and shall not be held to be applicable to any item of siwáí collections or cess levied by málguzárs and others according to ancient custom, which has been or shall be sanctioned by a Collector or other superior Revenue-authority, not being a tax on the transport, export or import of goods or merchandize, or other tax or duty specifically prohibited: but after the settlement of any village or mahál shall have been made in the manner specified in section 9, Regulation VII. 1822,[f] the rules and provisions aforesaid shall be applicable to all cesses and collections not sanctioned in the manner specified in that section.

a, d See *supra*, p. 141. b See *supra*, p. 32. c Repealed by Act No. XIX of 1873.
e Repealed by Act No. VI of 1863. f See *supra*, p. 178.

REGULATION XI OF 1825.

Passed on the 26th of May 1825.

A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river or the sea.[a]

Preamble.

1. IN consequence of the frequent changes which take place in the channel of the principal rivers that intersect the Provinces immediately subject to the Presidency of Fort William, and the shifting of the sands which lie in the beds of those rivers, chars or small islands are often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of land are carried away by an encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side; similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea-coast which borders the southern and south-eastern limits of Bengal.

The lands gained from the rivers or sea by the means above-mentioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming chars or other lands gained in the manner above described.

The Court of Sadr Díwání Adálat, with a view to ascertain the legal provisions of the Muhammadan and Hindú laws on this subject, called for reports from their law-officers of each persuasion, and on consideration of the reports furnished by the law-officers in consequence, as well as of the decisions which have been passed by the Court of Sadr Díwání Adálat in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers or the sea, the Governor General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the courts of judicature; to be in force, as soon as promulgated, throughout the whole of the Provinces subject to the Presidency of Fort William.

Claims and disputes as to alluvial lands to be decided

2. Whenever any clear and definite usage of shikast paiwast respecting the disjunction and junction of land by the encroachment or recess of a river may have been immemorially established, for determining the rights of the proprie-

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

tors of two or more contiguous estates divided by a river (such as that the main channel of the river dividing the estates shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

by usage when clearly recognized and established.

3. Where there may be no local usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or the sea.

Where no usage established, claims how decided.

4. *First.*—When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a zamíndár or other superior landholder, or as a subordinate tenure, by any description of under-tenant whatever.

Lands gained by gradual accession from recess of river or sea.

Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed, to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it may be liable under the provisions of Regulation II. 1819,[a] or of any other Regulation in force.

Extent of interest in increment of person in possession.

Nor if annexed to a subordinate tenure held under a superior landholder, shall the under-tenant, whether a khudkást raiyat, holding a maurúsí istimrárí tenure at a fixed rate of rent per bíghá, or any other description of under-tenant liable by his engagements, or by established usage, to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable.

Second.—The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, or may by the violence of stream separate a considerable piece of land from one estate, and join it to another estate, without destroying the identity, and preventing the recognition of the land so removed.

When river by sudden change of course intersects estate.

[a] See *supra*, p 111.

In such cases the land, on being clearly recognized, shall remain the property of its original owner.

Chars thrown up in navigable river.

Third.—When a char or island may be thrown up in a large navigable river (the bed of which is not the property of an individual), or in the sea, and the channel of the river or sea between such island and the shore may not be fordable, it shall, according to established usage, be at the disposal of Government.

Property therein when channel fordable.

But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land, tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section, with respect to increment of land by gradual accession.

Chars, &c., thrown up in small shallow rivers.

Fourth.—In small and shallow rivers, the beds of which, with the jalkar right of fishery, may have been heretofore recognized as the property of individuals, any sand-bank or char that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section.

Disputes relative to lands gained by alluvion or by dereliction not provided for by Regulation.

Fifth.—In all other cases, *viz.*, in all cases of claims and disputes respecting land gained by alluvion or by dereliction of a river or the sea, which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or if not, by general principles of equity and justice.

Encroachments on beds of navigable rivers and other obstructions.

5. Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers, or to prevent Zila and City Magistrates or any other officers of Government who may be duly empowered for that purpose, from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.

REGULATION XIII OF 1825.

Passed on the 7th of July 1825.

A Regulation to maintain the settlement made for certain lands held exempt from the payment of revenue by kánúngos in the Province of Bihár; and to provide for the future settlement of such lands, as well as of the lands composing other resumed lákhiráj tenures, with the present occupants, when so directed by Government.[a]

Preamble.

1. WHEREAS it was enacted by section 5, Regulation II of 1816,[b] that the revenue of lands held by kánúngos, generally in the Province of Bihár, in virtue of their offices, should be liable to resumption; and accordingly, under that law, various resumptions of land so held took place, and the parties to whom the zamíndárí interest in the same appeared to belong were admitted to engage for the Government revenue; but on the consideration of the proceedings held under the provisions of the above rule, it appeared to the Governor General in Council to be improper wholly to deprive the kánúngos or their representatives of the advantages derived from such lands, and enjoyed by them for a long course of years; and it was accordingly resolved by Government, on the 14th February, 1822, that in cases where the lands had been occupied and managed by the kánúngos or their representatives, and the rents received by them, they should be replaced in possession of such lands, and a settlement made with them on the principle prescribed by clause second, section 8, Regulation XIX of 1793,[c] *viz.*, the revenue to be paid to Government to be equal to one-half of the annual produce (or rental) of the lands, calculated according to the rates at which other lands in the pargana of a similar description may be assessed, securing to the proprietors of the soil such málikána or other allowance as they might have received prior to the resumption of the official minhái tenure;

and whereas the existing laws relative to the settlement of resumed lákhiráj tenures are not properly applicable to the case, and it appears to be expedient expressly to provide for the maintenance by the courts of judicature of the arrangement above described, in order that the kánúngo minhájárs may be secured in the possession (subject to the quit-rent fixed by Government) of the lands, rents and produce heretofore possessed by them;

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

[b] Repealed by Act No. VIII of 1868.

[c] See *supra*, p. 39.

and whereas it is desirable to provide for the settlement, on the same principle, of any lands that may be resumed under the corresponding rules relating to kánúngos and their official tenures in other parts of the country;

and whereas it appears to be generally expedient to make a distinct provision for securing to the holders of lákhiráj lands resumed by the officers of Government, and assessed on the principle prescribed in clause second, section 8, Regulation XIX. 1793,[a] the benefits which that law was designed to bestow, and to declare the competency of Government, in other cases, to continue the persons who have heretofore occupied lands free of assessment, or their representatives, in the possession of the same, notwithstanding such lands being made subject to assessment, the following rules have been enacted for these purposes respectively, to be in force throughout the territories subject to the Presidency of Fort William from the date of the promulgation of this Regulation.

Power to continue minhá'idárs and their heirs in possession of resumed lands heretofore held as lákhiráj by kánúngos.

2. In case of lákhiráj tenures resumed under the provisions of Regulation IV. 1808,[b] Regulations II[c] and V.[d] 1816, or any other Regulation in force relative to lands held by kánúngos by virtue of their offices, where the minhá or lákhiráj tenure, and the right of property in the land, are vested in distinct parties, it shall be competent to the Governor General in Council, by instruction to the Revenue Board or other Authority empowered to make the resumption, to continue the minhá'idárs and their heirs in possession and management of such lands, subject to such assessment as he shall judge it proper to direct; and the parties claiming the zamíndárí interest or other proprietary right in such mahál shall not be entitled to any land-rent, produce or profit beyond what they may have enjoyed up to the period of the resumption of the tenure, or would have been entitled to receive, in the event of Government having confirmed the same in perpetuity, free of assessment.

Persons, consequently, claiming to be máliks of the said lands, who, during the continuance of the lákhiráj tenure, had not possession of the same, whether they received a málikána allowance or otherwise, shall not disturb the possession of the minhá'idárs or their heirs and representatives, in any case wherein the Governor General in Council may have sanctioned such possession; and any suit preferred by such persons in a court of judicature to recover possession, contrary to the intent and meaning of this rule, shall be dismissed with costs.

[a] See *supra*, p. 32.
[b] Repealed by Act No. XIX of 1873.
[c] Repealed by Act No. VIII of 1868
[d] See *supra*, p. 117.

Provided, however, that in all cases of the nature above-mentioned, wherein the zamíndár or other proprietor of the land may have received málikána or other proprietary due during the existence of the lákhiráj tenure, he shall continue to receive the same, notwithstanding the resumption of the lákhiráj in like manner as if such resumption had not taken place.

Tenures of minhá'idárs so situated declared hereditary and transferable.

3. The tenures of the minhá'idárs which have been confirmed to them with the sanction of Government by the arrangement referred to in the preamble of this Regulation, or which may be so confirmed in conformity with the preceding section, are declared to be hereditary and transferable; but should they escheat to Government, the parties possessing a zamíndárí interest or other proprietary right in the lands will be admitted to engage for the revenue subject to a fresh assessment to be adjusted on the actual assets under the general Regulations.

Foregoing sections applied to certain lákhiráj resumptions.

4. The principles of sections 2 and 3 of this Regulation shall be considered applicable to all cases of lákhiráj resumption under the general Regulations in force, which may come within the favourable rule of assessment contained in the second clause of section 8, Regulation XIX. 1793,[a] in the Provinces of Bengal, Bihár and Orissa; or the second clause of section 8, Regulation XLI. 1795,[b] in the Province of Benares, it being the evident intention of the rule in question that it should be applied to persons who had been long in possession of the lákhiráj tenures made subject to assessment by the Regulations above cited; and whom it appeared equitable, in consideration of their long possession, to leave in occupancy of the lands composing their respective tenures, at a moderate assessment, not exceeding a moiety of the annual rent-produce.

Modification of enactments relative to settlement of resumed jágír, altamghá, madadmásh, aima or other bádsháhí grants, and to resumption of lákhiráj tenures.

5. In modification of the existing rules contained in Regulations XXXVII. 1793,[c] XLII. 1795[d] and XXXVI. 1803[e] or any other Regulation in force, relative to the settlement of resumed jágír, altamghá, madadmásh, aima and other grants of land termed bádsháhí or royal; and generally in qualification and explanation of all the rules in force relative to the resumption of lákhiráj tenures, and the future assessment of lands composing the same, it is hereby further declared that whenever such tenures may be pronounced invalid or extinct by a Revenue Board or other Authority empowered to investigate the lákhiráj title in such tenures, under the provisions of Regulation II. 1819[f] or of any other Regulation in force, it shall be competent to the Governor General in Council, on a special report of the circumstances of the case, when it may appear just and proper in consideration of the long possession of the

[a] See *supra*, p. 32.
[b, d, e] Repealed by Act No. XIX of 1873.
[c] See *supra*, p. 46.
[f] See *supra*, p. 141.

actual occupant of the land or of his ancestors, to direct his continuance in possession, though not the zamíndár, taluqdár or other málik of the land, on his engagement for the future assessment on such terms as may be prescribed by Government, and in such cases the whole of the provisions contained in sections 2 and 3 of this Regulation shall be deemed applicable, and be maintained by the courts of judicature accordingly.

REGULATION XIV OF 1825.

Passed on the 14th of July 1825.

A Regulation to declare the extent of the authority possessed by the Revenue-authorities, subordinate to the Governor General in Council, in the confirmation of lákhiráj tenures; to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters previously to the acquisition of the country by the British Government; and to provide for the due application of the general laws and regulations respecting lands held free of assessment, to the territory ceded by Govind Ráo to the British Government, and annexed to the zila of Bundelkhand, under the provisions of Regulation II. 1818.[a]

Preamble.

1. WHEREAS doubts have arisen as to the extent of the authority possessed by the Revenue-authorities subordinate to the Governor General in Council, in regard to the confirmation of lákhiráj tenures, which it is expedient to remove; and it is also desirable further to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters, previously to the acquisition of the country by the British Government; and it is necessary to make provision for the due application of the general rules in force relative to lákhiráj tenures, to the territory ceded by Govind Ráo to the British Government, and annexed to the zila of Bundelkhand, under the provisions of Regulation II. 1818[b];

and whereas it is enacted by clause first, section 26, Regulation II.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

[b] Repealed by Act No. XV of 1874.

1819,[a] that in suits instituted in the Zila Courts to contest the decisions passed by the Revenue Boards, under the provisions of that Regulation, a special appeal only shall lie in the Provincial Courts, and that in like manner in cases decided in the first instance by a Provincial Court, excepting cases ultimately appealable to the King in Council, an appeal shall be received by the Sadr Díwání Adálat on special grounds only; and it appears to be expedient that the above restriction should not apply to cases wherein the decision of the Court may be opposed to the judgment of the Board of Revenue or other Authority exercising the powers of that Board, but that such cases should be open to a regular appeal,

the following rules have been enacted, in addition to, and in modification of, the provisions of Regulations XIX.[b] and XXXVII.[c] 1793, Regulations XLI[d] and XLII.[e] 1795, Regulations XXXI[f] and XXXVI.[g] 1803, of such parts of Regulations VIII[h] and XII.[i] 1805, as refer to lákhiráj lands, and of Regulation II. 1819[j]; to be in force from the date of their promulgation throughout the Provinces immediately subject to the Presidency of Fort William.

Lákhiráj tenures under what circumstances alone valid.

2. It is hereby declared and enacted, that the power of granting lákhiráj tenures, *viz.*, tenures of land exempt from the public assessment, either for life or in perpetuity, as well as of confirming such tenures excepting by a regular judgment passed after a judicial inquiry, belongs, and always has belonged, exclusively to the Supreme Government; and no act, order or decision, granting or confirming any tenure as aforesaid within any of the territories subordinate to this Presidency, after the annexation of such territories to the British dominions shall be held valid, unless the same shall have been done, issued or passed by or under the immediate directions of the Governor General in Council, or by some officer expressly authorized by Government to grant or confirm such tenures, or with respect to the confirmation of grants duly authorized by some competent court of judicature in a suit regularly tried and decided by it, or by one of the Revenue Boards acting in a judicial capacity, under the rules of Regulation VIII. 1811,[k] whilst that Regulation (rescinded by section 2 of Regulation II. 1819) was in force; and subsequently under the rules of Regulation II. 1819[l] or any other Regulation expressly empowering the Revenue Boards, after full investigation of claims to exemption from assessment under the general rules applicable to lákhiráj tenures, to pronounce a decision against the assessment, to be considered final, except on proof, in a court of judicature, of fraud or collusion in the previous inquiry.

a, j, l See *supra*, p. 141. b See *supra*, p. 32. c See *supra*, p. 46.
d, e, f, g, h Repealed by Act No. XIX of 1873. i See *supra*, p. 75.
k Repealed by Regulation II of 1819.

Provided also, that no resolution or order passed by the Lieutenant-Governor and the Board of Commissioners, in the Ceded and Conquered Provinces, the Board of Revenue or other Authority exercising the powers of that Board, whereby the right of Government to assess any lákhiráj lands may have been relinquished or postponed, save and except decisions regularly passed according to the rules above cited, shall operate to the prejudice of Government, or be held to bar the Revenue-authorities from proceeding for the recovery of public dues under the provisions of Regulation II. 1819[a] or any other rules in force relative to the resumption of lákhiráj tenures held under invalid grants.

Trial of validity of grants.

3. *First.*—The following principles are to be observed in determining the force and validity of grants made by persons exercising authority in the Provinces subordinate to this Presidency, previously to the acquisition of the country by the British Government.

Lakhiráj tenures, of which uninterrupted possession has been held, declared valid, &c.

Second.—Lákhiráj tenures of which uninterrupted possession shall have been held exempt from assessment at and subsequently to the periods undermentioned shall be, and be considered to be, valid, without evidence to any formal grant or confirmation of the same; and shall be continued to heirs in cases in which it may be clearly shown, from the nature and denomination of the tenure, that it is hereditary according to the ancient usage of the country, *viz.*, the 12th August, 1765, if the tenure be in Bengal, Bihár or Orissa (excepting Katak); the 14th October, 1791, if the tenure be in Katak, including Paṭáspur or its dependencies; the 1st July, 1775, if the tenure be in the Province of Benares; the 10th November, 1789, if the tenure be in the Provinces ceded by the Nawáb Wazír in November, 1801; the 1st January, 1792, if in any of the Provinces ceded by Daolat Ráo Scindia and the Peishwa, under the treaties of the 16th and 30th December, 1800; the 1st November, 1805, if in the pargana of Khanḍa or other territory ceded by Náná Govind Ráo on the 1st November, 1817.

Provided, however, that the above rule shall not apply to cases of derivative tenures, wherein it may appear that the tenure is derived from a jágírdár or other person, who, at any of the periods above specified, held lands free of assessment under a temporary or conditional tenure.

In all such cases, the parcels of the land so held shall follow the condition of the principal tenure; and if that be resumable, will consequently be liable to resumption.

Proof of title to hold or recover lákhiráj tenure to rest on claimants.

Third.—The proof of possession in the cases provided for by the preceding clause, and (in the case of persons not the original grantees) of the hereditary nature of the tenure shall be on the parties claiming to hold or recover the

[a] See *supra*, p. 141.

lákhiráj tenure; the general principle being that the ruling Power is entitled to a certain proportion of the produce of every bíghá of land, excepting so far as it shall have transferred, relinquished or compounded its right thereto; and all parties claiming the benefit of such exemptions being bound to establish their respective claims and titles.

One or more successions before periods specified, not to establish title of inheritance.

Fourth.—Provided also, that although one or more successions to any tenure as aforesaid may have taken place before the periods specified in the second clause, the fact shall not be taken to establish a title of inheritance, unless the tenure be clearly of an hereditary nature; or unless the right of inheritance therein shall have been admitted by the Governor General in Council on a reference made to Government according to the rules in force applicable to such cases.

Potentates and authorities recognizable by Courts, &c.

Fifth.—The courts of judicature and Revenue-authorities shall not recognise any potentate or person as having been vested with the supreme power within any part of the Provinces subordinate to this Presidency, save and except the Kings of Delhi, the súbahdárs of Bengal, Bihár and Orissa, and the several Authorities specified in Regulation XLII. 1795,[a] Regulation XXXVI. 1803[b] and Regulations VIII[c] and XII.[d] 1805; and with respect to the territory ceded by Náná Govind Ráo, save and except Rájá Chattarsál and his predecessors, previously to the Mahrátha conquest of that territory in the year 1802 of the Sambat era (corresponding with 1730 of the Christian era), and subsequently thereto His Highness the Peishwa, who then obtained the supreme authority in the territory referred to.

If in any case grants shall be produced, purporting to have been made or confirmed by any other person than as aforesaid, alleged to have been vested with the supreme power for the time being, and it shall appear to the Court or other Authority investigating the same that the plea is well founded, the Court or other Authority before whom the case may be depending shall, before passing any decision thereupon, refer the point to the Governor General in Council and be guided by his determination.

Conditions requisite to establish validity of grants by such potentates, &c.

Sixth.—To the validity of grants made or confirmed by the Kings of Delhi or by any of the Rulers aforesaid, it is and shall be held to be necessary;

1st.—that they were made or confirmed within the period during which the person granting or confirming the same possessed and exercised supreme power within the territory in which the lands specified in the grant are situate:

2nd.—that the grantee actually and *bonâ fide* obtained possession of the land granted within the said period:

3rd.—that the grant was not subsequently resumed by the officers or the

a, b, c Repealed by Act No. XIX of 1873.

d See *supra*, p. 75.

orders of the Government for the time being previously to the acquisition of the country by the British Government, or if so resumed, that the competence of the officer to resume shall have been expressly disallowed by the Governor General in Council.

Periods at which Provinces subordinate to Presidency of Fort William were acquired by British Government.

Seventh.—The following shall be held, for the purposes specified in this Regulation, to be the periods at which the several Provinces subordinate to this Presidency were acquired by the British Government, *viz.*, for Bengal, Bihár and Orissa (excepting Katak), the 12th August, 1765; for Benares, the 1st July, 1775; for the Provinces ceded by the Nawáb Wazír, the 1st January, 1801; for the Provinces ceded by Daolat Ráo Scindia and the Peishwa, the 1st January, 1803; for the Province of Katak, Paṭáspur and its dependencies, the 14th October, 1803; for the pargana Khanḍa and the other territory ceded by Náná Govind Ráo, the 1st November, 1817.

Conditions necessary to validity of grants not made or confirmed by supreme power.

Eighth.—To the validity of grants not made or confirmed by the supreme power (excepting tenures of long possession described in the second clause of this section), it shall be held to be necessary;

1st.—that they were made or confirmed by some authority which the Governor General in Council shall have expressly declared competent to make or confirm the same:

2nd.—that the grantee actually and *bonâ fide* obtained possession of the land granted, and that the revenue of the land was not subsequently resumed by competent authority.

Decision of questions regarding lákhiráj tenures, resumed previously to acquisition of country by Government.

Ninth.—Provided also, that in cases in which any lákhiráj tenure may have been resumed previously to the acquisition of the country by the British Government, the determination of the question whether the officer by whom or by whose order the resumption may have been made was legally competent to do so, shall, in all cases wherein it may be necessary to determine this question, rest with the Governor General in Council.

Moreover, all questions touching the validity of grants made or confirmed by any officer subordinate to the supreme Power, or the legal effect of resumption by any such officer which may not have been expressly provided for by the Regulations, and which may be material to the decision of any suit or inquiry, shall be referred by the courts of judicature or other Authorities making the investigation to the Governor General in Council for determination, unless the powers and competence of the officer in question shall have been previously determined by Government.

Saving of lands not

4. Nothing in this Regulation shall be construed to affect the provisions contained in Regulation XIX. 1793,[a] Regulation XLI. 1795,[b] Regulation

[a] See *supra*, p. 32.

[b] Repealed by Act No. XIX of 1873.

XXXI. 1803[a] and Regulation XII. 1805,[b] relative to lands not exceeding ten bíghás of which the produce is *bonâ fide* appropriated to religious or charitable uses. devoted to religious or charitable uses.

5.—[*Repealed by Act No. XII of 1873.*]

6. In modification of the rules contained in section 26, Regulation II. 1819,[c] it is hereby enacted that in cases wherein a Zila Court shall annul or alter a judgment passed by the Board of Revenue or other Authority exercising the powers of that Board, under the provisions of the above-mentioned Regulation, a regular appeal shall lie. Modification of Regulation II. 1819, section 26.

The provisions of the above-mentioned section shall however still be applicable to cases in which the Zila Courts may maintain the decisions of the Revenue Boards or other Authorities exercising the powers of these Boards.[d]

REGULATION XX OF 1825.

Passed on the 3rd of November 1825.

A Regulation for declaring the jurisdiction of the military Courts-martial and Courts of Requests, constituted by a recent Act of Parliament, and for modifying some parts of the existing Regulations in conformity thereto.[e]

1. By an Act of Parliament passed in the fourth year of the reign of his present Majesty King George the Fourth, entitled "An Act to consolidate and amend the laws for punishing mutiny and desertion of officers and soldiers in the service of the East India Company," provision is made for the trial by courts-martial of European British subjects, either actually serving as officers or soldiers or otherwise attached to the army, when accused of murder, rape, robbery, theft and other offences committed in a foreign territory, or at any place within the territories subject to the Presidency of Fort William, situate at a greater distance from that Presidency than one hundred and twenty miles, as well as for investing military Courts of Requests constituted according to the provisions of the aforesaid Act with the cognizance of actions of debt and all personal actions to an amount not exceeding four hundred rupees, against any British commissioned or non-commissioned officer or soldier, or other persons amenable to the Preamble.

[a] Repealed by Act No. XIX of 1873.
[b] See *supra*, p. 75
[c] See *supra*, p. 141.
[d] See Regulation III of 1828, section 10, clause 4.
[e] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874. See *Reg.* v. *Jackson*, 13 Beng. 474.

provisions of the Act, at places situated beyond the jurisdiction of the Court of Requests in Calcutta;

it has in consequence become necessary to rescind or modify certain parts of the Regulations in force which relate to the apprehension or trial of British subjects accused of criminal offences, and to the cognizance of petty offences and actions of debt by a military tribunal;

the following rules have been accordingly enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William.

Procedure as to European British subjects attached to army serving within certain limits, when apprehended by Magistrates on criminal charges.

2. *First.*—In modification of the rules contained in Regulation II. 1796,[a] section 19, Regulation VI. 1803[b] and Regulation XV. 1806,[c] it is hereby provided that if any European British subject who shall be apprehended by or brought before a Magistrate on a charge of murder, rape, robbery, theft or other criminal offence, shall be found, on his apprehension, to have been, at the time when the offence laid to his charge may have been committed, a commissioned or non-commissioned officer or soldier serving with any body of troops in the service of His Majesty or of the Honourable East India Company, at any place not within the territories subject to the Presidency of Fort William, or at any place within such territories which may be situated above one hundred and twenty miles from the aforesaid Presidency, or to have been, when the offence was committed, a person attached to such body of troops in any of the capacities specified in sections 45 and 60 of Statute 4 Geo. IV, cap. LXXXI,[d] it shall be the duty of the Magistrate by whom such person so accused may be apprehended, instead of proceeding to hear evidence to the charge as directed in such cases in the Regulations above-mentioned, to deliver over such person so charged, together with a statement of the charge brought against him, to the commanding officer of the regiment, corps or detachment to which such accused person shall belong, or to the commanding officer of the nearest military station, for the purpose of his being brought to trial before a court-martial under the provisions of the said Act of Parliament.

Magistrates to assist in apprehension of persons triable by court-martial, when accused of criminal offences.

Second.—It shall further be the duty of every Magistrate, on a written application being made to him for that purpose by the commanding officer of any regiment, corps or detachment stationed or employed as specified in the preceding clause, to use his utmost endeavour for the apprehension of any British officer, non-commissioned officer, soldier or other person of the description therein alluded to, who may have been charged with the crime of murder, rape, robbery, theft or other criminal offence, and also to give his assistance,

[a] Repealed by Act No. XVII of 1862.
[b] Repealed by Act No. VIII of 1868.
[c] Repealed by Act No. XVII of 1862.
[d] Repealed by 3 & 4 Vic., c. 37, s. 59.

and that of the officers under his control, in securing the person so accused.

Magistrates to enforce process for attendance of witnesses, &c., before courts-martial, on application.

Third.—It is hereby declared that it shall be competent to the Judge-Advocate-General or Deputy Judge-Advocate, or other person appointed to conduct the proceedings of any court-martial assembled for the trial of offences under the provisions of the said Act of Parliament, to transmit to the Magistrate of the zila or city within whose jurisdiction persons whose attendance before such court-martial is required may reside, any warrant, summons or other process for the attendance of such person; and it shall be the duty of such Magistrate who may be so applied to, to give his assistance and that of the officers under him in the due execution of such process, and generally to aid and assist in the execution of all processes issued by such courts-martial.

Magistrates not to inquire into criminal charges preferred against certain British subjects.

Fourth.—The several zila and city Magistrates are hereby prohibited from receiving and inquiring into any criminal charge of the nature described in section 2 of Statute 4 Geo. IV, cap. LXXXI, which may be preferred to them against any British commissioned or non-commissioned officer, soldier or other person attached to the army, who may have been regularly brought to trial under the provisions of the said Act, and acquitted or convicted by the sentence of a court-martial of such offence;

provided, however, that in any case wherein it may be ascertained by the Magistrate on due inquiry that any person accused of such criminal offence, who may be subject to trial by court-martial, has not been brought to trial for such offence before a court-martial, and that no effectual proceedings have been taken, or have been ordered to be taken, against him, then and in that case it shall be the duty of the Magistrate to report the circumstance for the information and orders of the Governor General in Council, who, if it appear to him proper so to do, will direct the case to be proceeded upon in the ordinary course of law; and the Magistrate, if so authorized, shall be competent to proceed against the offender under the provisions of the Regulations hitherto in force.

Proceeding against British subjects accused of criminal offences when not attached to army or triable by court-martial.

Fifth.—Provided always, and it is hereby declared, that nothing contained in the foregoing clauses shall be held to restrict the Magistrates of districts, either in their ordinary capacity of Magistrates or as His Majesty's Justices of the Peace duly qualified, from proceeding under the rules heretofore in force against all British subjects charged with criminal offences, who may not be attached to the army or subject to be tried for such offences by a court-martial.

Provisions not to apply to troops in Fort William or at other place not situated above 120

Sixth.—It is hereby further declared that the provisions of this Regulation, as far as the same relate to criminal offences committed by any commissioned or non-commissioned officer, soldier or other person attached to the army, being British subjects, shall not be held to apply or be in force when such offences shall be committed by persons of the above description, attached to any body

miles from Presidency.

of troops which may be stationed in the garrison of Fort William, or at Barrackpur, Mednípur, Dam-Dam or at any other place within the territories under the Presidency of Fort William, which may not be situated at a greater distance than one hundred and twenty miles from the said Presidency; and in all such places, the powers and authorities vested by law in the Magistrates and Justices of the Peace shall continue to be and remain in full force and effect.

Provisions not applicable to debts due from British subjects attached to army.

3. *First.*—Such parts of Regulation XX. 1810[a] or of any other Regulation in force, as provide for the cognizance by a military tribunal of actions of debt, and all personal actions not exceeding in value or amount the sum of two hundred rupees, are hereby declared not to be applicable to cases of debt, or other personal actions, in which the party sued may be a British subject attached to the army within the descriptions of persons specified in section 57 of Statute Fourth Geo. IV, cap. LXXXI, by which amongst other things it is

Provision for cognizance of such debts.

enacted, that in all places where the said Company's forces now are or may be employed, or where any body of His Majesty's forces may be serving with the forces of the said Company, situate beyond the jurisdiction of the Court of Requests at the city of Calcutta, actions of debt and all personal actions against such officers, non-commissioned officers or soldiers, all persons licensed to act as sutlers to any corps or detachment or at any station or cantonment, or other persons amenable to the provisions of this Act, or resident within the limits of a military cantonment, shall be cognizable before a Court of Requests composed of military officers, and not elsewhere: provided the value in question shall not exceed four hundred sikká rupees, and that the defendant was a person of the above description when the cause of action arose.

Repeal of Magistrate's jurisdiction as to certain claims, so far as regards European British subjects.

Second.—The power given to the Magistrates of districts by section 106 of Statute 53 Geo. Third, cap. CLV, to take cognizance of debts not exceeding fifty rupees alleged to be due from British subjects to Natives of India, and to pass a summary decision on the same, in so far as regards claims on officers or soldiers being European British subjects, is also repealed by the section 57 of Statute Fourth Geo. IV, cap. LXXXI.

Their amenability to local Courts for debts exceeding Rs. 400.

Third.—Officers and soldiers being European British subjects will still be subject to the jurisdiction of the local courts of civil justice, under the provisions of section 107 of Statute 53 Geo. Third, cap. CLV, except in actions of debt and personal actions not exceeding four hundred rupees in value or amount.

Continuance of provisions of section 22, Regulation XX. 1810 as

Fourth.—The provisions of section 22, Regulation XX. 1810,[b] will still remain in force, so far as they relate to actions of debt and personal actions against officers, soldiers and retainers of the description therein specified or

[a, b] See *supra*, p. 105.

referred to, not being European British subjects within the provisions referred to in the first clause of this section. regards Natives attached to army.

4. Whenever a witness in attendance before a general court-martial or other military Court duly authorized to administer an oath shall refuse to be sworn, and the Court shall be of opinion that the testimony of such witness is essential, and that there is no sufficient reason to exempt him from taking the oath, the Judge-Advocate-General or other officer conducting the proceedings of the Court shall be authorized to forward such witness, with a written statement, to the zila Magistrate or Joint Magistrate within whose jurisdiction the Court may be held; and the Magistrate or Joint Magistrate is hereby directed to make such inquiries into the case as may satisfy him that the witness ought or ought not to be exempted from taking an oath. Procedure when witness refuses to be sworn before military Court.

If the Magistrate or Joint Magistrate shall be of opinion that no sufficient grounds exist for exempting the witness from taking the prescribed oath, he shall proceed in the same manner as if the refusal to give evidence on oath had taken place in his own Court: on the other hand, if he shall be of opinion that the witness ought not to be compelled to take the oath, he shall certify the same to the Judge-Advocate-General or other officer above referred to, and shall not impose any penalty on such witness.

REGULATION III OF 1827.

Passed on the 1st of November 1827.

A Regulation for modifying and amending the rules in force relative to the law-officers and ministerial Native officers of the courts of judicature, who may be guilty of corruption or extortion.

1 to 4.—[*Repealed by Act No. XVI of 1874.*]

5. From and after the date of this Regulation it shall not be necessary for any party from whom money or property may have been corruptly taken or extorted to institute a civil action for the recovery thereof; but on proof of the charge in a criminal prosecution for those offences, a certified copy of the conviction by a Court of Circuit, or the Nizámat Adálat, shall be received as sufficient authority for enforcing the refund of the amount or value so taken, with interest, on application to that effect being preferred by the aggrieved party to the Civil Court. Record of criminal conviction sufficient for compelling refund of property corruptly taken or extorted.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

REGULATION V OF 1827.

Passed on the 27th of December 1827.

A Regulation for modifying the rules at present in force for the management of estates under attachment by orders of the Courts of Justice in certain cases.

Preamble.

1. WHEREAS it is expedient in all cases of the attachment of landed property under orders of the Courts of Justice, that the management of the estate attached should be placed under the superintendence of the Collectors of land-revenue, the following rules have been enacted by the Governor General in Council, to be in force from the date of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

Modification of Regulations regarding management of estates under attachment.

2. The rules contained in sections 5 and 6, Regulation V. 1799,[b] and clauses 5 and 6, section 16, Regulation III. 1803,[c] regarding the administration and management of estates under orders of the Zila Courts, are hereby declared subject to the following modifications.

Issue of precept for holding estates under attachment and for appointing managers.

3. Whenever the Zila Courts may deem it just and proper, under the provisions of the several Regulations above-mentioned, to provide for the administration or management of landed property, the Court shall issue a precept to the Collector of land-revenue of the district wherein the estate may be situated, directing him to hold the estate in attachment, and to appoint a person for the due care and management of the estate, under good and adequate security for the faithful discharge of the trust, in a sum proportionate to the extent thereof;

provided, however, that if any person holding an interest in the estate shall be dissatisfied with the selection made by the Collector of the individual to perform the duty in question, or with the conduct of the manager at any time after his appointment, it shall be competent to such person to represent his objections to the Board of Revenue, and the Board will either confirm the manager chosen, or order the Collector to appoint another person, as on consideration of the circumstances of the case may appear reasonable and proper.

Precept to state property included in attachment.

4. The precept of the Zila Court above-mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

[b] See *supra*, p. 63.

[c] Repealed by Act No. XIX of 1873.

REGULATION III OF 1828.

Passed on the 12th of June 1828.

A Regulation for the appointment of special commissioners for the more speedy hearing and determination of appeals from the decisions of the Revenue-authorities in regard to lands or rents occupied or collected by individuals, without payment of the revenue demandable by Government, under the general law of the country, and for otherwise more effectually securing the realization of the public dues.[a]

Preamble.

1. BY the provisions of Regulation II. 1819 [b] and other Regulations subsequently enacted, Collectors and other local Revenue-officers throughout the Provinces subordinate to this Presidency have been empowered, with the sanction of the Boards of Revenue, to institute inquiries with a view to the resumption and assessment of all lands held free of rent, or at an inadequate rent, under invalid tenures;

Commissioners have likewise from time to time been appointed under the orders of Government to maintain and enforce the public rights in different districts, in which extensive tracts of country, unowned and unoccupied at the time of the perpetual settlement, are now liable to assessment, or, being still waste, belong to the State.

It was at the same time provided in the Regulations above adverted to, that in all cases in which the Revenue-officers might declare the lands of any individual liable to assessment, the party might contest the decision by suit in one of the ordinary Courts of Justice, such provision having been made with the intention that the decisions of the Collectors and the Boards should be held and considered to be judicial awards, and that the suits preferred to the ordinary Courts, being of the nature of appeals, should be speedily disposed of.

It has, however, appeared that, partly from the number of the cases in question, partly from the practice of the Courts in treating the appeals made to them as original suits, and partly from other causes, little or no progress has been made towards the settlement of the matter, and heavy arrears of such cases have accumulated in several of the Courts and Boards of Revenue; that the existing laws have not been adequate to secure for the Revenue-authorities the information required, and that consequently, while, on the one hand, a large amount of revenue continues to be usurped without any just

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

[b] See *supra*, p. 141.

pretence, and the improvement of the country is hindered by frivolous and litigious claims, on the other hand, the owners of valid tenures are disquieted and disturbed.

To remedy the aforesaid evils, it appears to be expedient to appoint special Commissioners competent to determine finally all cases of the nature above described, within such local limits as may from time to time be deemed necessary; to declare the intent and meaning of the existing Regulations in regard to suits preferred to the ordinary Courts relative to such cases; and to provide that all successions to the possession of land or rent, free of assessment, whether by sale, gift or inheritance, shall be regularly reported to the Revenue-authorities.

It has likewise appeared to be expedient and proper to make provision for the immediate settlement of the limits of the Sundarbans, as ascertained by careful local inquiry, conducted by the Commissioner specially appointed to the duty, and the surveyors under his authority; and also to declare the intent and meaning of certain parts of the existing Regulations, in regard to which doubts have arisen.

The following rules have accordingly been enacted, to be in force from the date of their promulgation throughout the Provinces immediately subordinate to the Presidency of Fort William.

Appointment of special Commissioners.

2. *First.*—It shall be competent to the Governor General in Council, by an Order in Council, to appoint one or more special Commissioners, as may be judged expedient, for the final determination of all cases which have been or may be investigated by Collectors, Deputy Collectors or other officers exercising in that behalf the powers of Collectors, under the rules of section 5 and the fifteen subsequent sections of Regulation II. 1819,[a] and of section 5, Regulation IX. 1825,[b] subject to the provisions hereinafter enacted; and the Commissioner or Commissioners so appointed shall similarly determine all suits which may be brought to contest the demand of the Revenue-officers, on the plea that the annual rent or assessment upon which the demand is founded exceeds what the party is bound to pay, and which may consequently involve the question of a permanent increase or reduction of the public revenue.

Jurisdiction of Commissioners.

Second.—The jurisdiction of the special Commissioner or Commissioners appointed as above shall extend to such districts or portions of districts, and for such periods, as the Governor General in Council may direct; and it shall be competent to the Governor General in Council to fix and appoint the functions to be discharged by each Commissioner, and to assign to him such local jurisdiction as may from time to time appear proper.

[a] See *supra*, p. 141. [b] See *supra*, p. 216.

Third.—Whenever any Commissioner or Commissioners shall be vested by the orders of the Governor General in Council with jurisdiction in any district or other division, notice thereof shall be published by proclamation at the kachahrís of the Judge and Collector of such district, and shall likewise be communicated to the Zila Courts concerned. Publication of jurisdiction.

Fourth.—Whenever any of the said Courts shall be apprized in the manner above specified of the appointment of a Commissioner or Commissioners to exercise the powers specified in this Regulation within any zila or other local division, the powers heretofore vested in, and exercised by, the said Courts in regard to all cases belonging to such local division of the nature declared cognizable by the special Commissioners shall be suspended, and the said Courts shall immediately stay all proceedings in such cases, until they shall be apprized that the local jurisdiction of the Commissioner or Commissioners has ceased, and further, the said Courts shall forthwith transmit to the Commissioner the records of all cases of the above nature which may be depending before them; Suspension of powers of Courts in regard to cases cognizable by Commissioners.

provided also, that no appeal shall lie to any of the established courts of judicature from any decision which has been or shall be passed by the Board of Revenue or a Collector, in regard to the revenue of any lands lying within such local division, previously to or pending the appointment of a special Commissioner.

Fifth.—In all cases which have been decided by the Boards of Revenue before the jurisdiction of a Commissioner may have been declared to extend to the district in which they have arisen, and in which the parties would, but for the extension of such jurisdiction, have been entitled to appeal to the ordinary Courts of Justice, under the rules contained in sections 22 and 24 of Regulation II. 1819,[a] and section 5, Regulation IX. 1825,[b] an appeal shall lie to such special Commissioner, and the cases shall be heard and determined in the same manner as appeals preferred to that Authority from the decisions of Collectors under this Regulation. Appeal to Commissioners from decisions of Board of Revenue.

Sixth.—Notice of the appointment of a Commissioner to exercise the powers specified in this Regulation in any district or other local division shall likewise be communicated to the Boards of Revenue or other Board exercising control over the Revenue-officers of such district or division, and on the receipt of such communication, the powers vested in the said Boards under the provisions of Regulation II. 1819[c] and Regulation IX. 1825[d] (with exception to the powers specified in section 4 of the last-mentioned Regulation), shall be suspended within the said district or division; and the said Board Notice to Boards of appointment of Commissioner.

a, c See *supra*, p. 141. b, d See *supra*, p. 216.

special Commissioner or Commissioners, under the same rules and restrictions as are applicable to appeals from the decisions of the aforesaid Court[a];

provided, however, that such decisions shall be immediately executed and enforced, notwithstanding the institution of the appeal: provided also, that it shall be competent to any Commissioner to review any judgment passed by him, on sufficient cause being shown why a new trial should be granted, the rules in the existing Regulations regarding a review of judgment being held applicable to such cases.

Judgment of single Commissioner coinciding with decision of Collector or Board when final.

Sixth.—In all cases in which the judgment of a single special Commissioner shall coincide with the decision passed by a Collector or by a Board of Revenue, or by a Court of Justice, in cases which have been decided by an inferior Court, and after having been appealed to a higher, have been transferred under the provisions of this Regulation to a special, Commissioner, the decision of such single Commissioner shall be final, subject to the provisions of the foregoing clause.

Procedure in case of difference of opinion.

But if, on hearing any case of the nature above specified, a single Commissioner shall be of opinion that the last award made in such case ought to be reversed or altered, he shall record his opinion to that effect, and the case shall then be laid before another special Commissioner appointed under this Regulation, and should he disagree in opinion as to the decision of the case, to a third Commissioner, so that the final award may be made by the concurrent voices of at least two special Commissioners.

Provided that it shall be competent to the Governor General in Council, on the occasion of appointing a special Commissioner to exercise the powers specified in this Regulation within certain local limits, to determine at the same time to what other special Commissioner a reference shall be made by him in cases of difference of opinion.

Regulation not to extend to cases specified in section 30, Regulation II. 1819, except when they involve rights of Government to assess lands.

5. It is hereby declared and enacted that the provisions of this Regulation are not intended and shall not be construed to extend to cases of the nature specified in the several clauses of section 30, Regulation II. 1819,[b] save and except when such cases may involve the rights of Government to subject to assessment all or any portion of the lands in respect to which the action may be brought.

In cases of the above description, in which the Government may be a party, whether instituted in the first instance before the Collector or referred to him by the Court, the Collector shall proceed to investigate and decide in the mode prescribed in the preceding section of this Regulation, the several clauses of which shall be held to apply to such suits; and all other cases falling within the provision of section 30, Regulation II. 1819,[c] in which the Government is

[a] See the Code of Civil Procedure, Act No. X of 1877, section 615. [b, c] See *supra*, p. 141.

not itself a party, shall be heard and determined under the rules therein enacted and the subsequent modifications of them declared in section 5, Regulation IX. 1825.[a]

Proceedings of Commissioners how regulated.

6. *First.*—The special Commissioners appointed under this Regulation shall be guided by such rules as may be prescribed by the Governor General in Council in regard to the forms of proceeding, the nature and number of the pleadings, the mode in which they are to be conducted, the paper (stamped or unstamped) to be used, the fees to be levied, and, generally, the rules of practice to be followed.

Commissioners may prescribe rules for guidance of Collectors, &c.

Second.—The special Commissioners shall likewise be competent to issue such instructions to the Collectors of the districts over which their jurisdiction extends, in regard to their proceedings relative to cases investigated under the rules of Regulation II. 1819[b] and Regulation IX. 1825,[c] as may appear requisite for their guidance and conducive to the ends of justice, and, when it may appear necessary or proper, to refer cases back to those officers for further trial.

Enforcement of process of Commissioner.

Third.—All processes issued by a Commissioner shall be enforced in the same manner, and under the same penalties for disobedience or resistance, as processes of the ordinary Courts of Justice; and all the powers possessed by those Courts, in regard to contempts, the summoning and examination of witnesses and the administration of oaths, shall be vested in the Commissioners, whose decision shall in such matters be final.

Execution of decisions of Commissioners.

Fourth.—The special Commissioners shall be competent to require the Zila Courts to carry into execution, when necessary, the decisions which they may pass, and the Zila Courts shall give effect to such decisions in the same manner as they are required to execute the decrees passed by the Court of Sadr Díwání Adálat.

Rules applied to Native officers attached to Commissioners.

Fifth.—The several rules and provisions contained in the existing Regulations relative to Native officers belonging to the Zila Courts will be applicable to the Native officers employed by the special Commissioners, except in cases in which the Commissioners may, with the sanction of Government, otherwise determine.

Courts and Collectors to aid Commissioners.

7. *First.*—It shall be the duty of the Courts and of the Revenue-officers to afford the Commissioners every aid and information that they may require, to serve all processes issued and required to be served by the Commissioners in like manner as if they were issued by themselves, to prepare and transmit to the Commissioners such lists of cases decided or pending before them, as they may see occasion for, and to furnish all papers and documents which the Commissioners may desire to examine.

Commissioners may require Zila

Second.—It shall likewise be competent to the Commissioners to require the Zila Courts or the Collectors to examine witnesses, either on written interroga-

[a] [c] See *supra*, p. 216.

[b] See *supra*, p. 141.

Courts and Collectors to examine witnesses and furnish information.

tories or otherwise, in regard to any points the investigation of which it may appear necessary to conduct in that manner, and generally to inquire and report on particular points upon which further information is desirable, in the same manner as the said Courts are required to report in pursuance of precepts issued to them by the Court of Sadr Díwání Adálat.

Commissioners to furnish statements and reports.

8. The special Commissioners shall furnish to Government periodically such statements and reports as the Governor General in Council may prescribe.

9.—[*Repealed by Act No. XII of 1873.*]

Regulation II. 1819, modified and extended. Decisions of Boards of Revenue under section 21 of Regulation II. 1819, to be executed notwithstanding suit to contest them.

10. *First.*—The following rules are hereby enacted in modification and extension of the provisions contained in sections 22, 23, 24, Regulation II. 1819.[a]

Second.—All decisions which have been or may be passed by the Boards of Revenue under the rules in section 21, Regulation II. 1819, declaring the liability to assessment of lands, whether the same be situated in districts to which the jurisdiction of a special Commissioner has been extended or in any other district, shall be carried into immediate execution by the Collectors or other local Revenue-officers of such district, notwithstanding that the parties against whom such decisions may have been or may be passed, shall have sued or shall sue to contest the Board's decision in one of the established Courts of Justice or to the Commissioner appointed under this Regulation, and such parties shall not be permitted to retain possession of the lands, unless they enter into an engagement to pay the assessment which may be fixed upon them; such assessment to be collected under the general rules for the realization of the Government revenue from farmers thereof.

Consequence of declining to pay assessment.

And if any person against whom the Board may have decided shall decline to pay the assessment fixed on the lands, he shall be forthwith dispossessed, and such arrangements shall be made for the collection of the Government revenue, as the Collector, under the orders of the Board, may see fit to adopt: but in the event of a final decision being passed, exempting the tenure of any such person from assessment, the nett collections made on account of Government shall be refunded, with interest thereon at the rate of six per cent. per annum.

Trial of suits to contest Board's decision in cases in which jurisdiction of Courts is not barred.

Third.—All suits which may be instituted in the established Courts of Justice under the provisions of sections 22 and 24, Regulation II. 1819, and section 5, Regulation IX. 1825,[b] to contest decisions of the Boards of Revenue, shall, when the jurisdiction of the above Courts is not barred by the operation of this Regulation, be heard and determined in the same manner as regular appeals, and no further pleadings shall be required or received in such cases than the objections of the appellant to the decision of the Board, and the reply to those objections on the part of the Revenue-authorities;

[a] See *supra*, p. 141. [b] See *supra*, p. 216.

the said Courts shall likewise, on the admission of an appeal, invariably call for the original record of the Board's proceedings in each case, and shall then require the parties to file their pleadings as above provided; but it shall not be competent to the Courts to take further evidence, oral or documentary, unless it shall appear that such evidence was tendered by the party adducing it to the Collector or the Board, and was then rejected on insufficient grounds, or that such evidence is essential to the ascertainment of some fact material to the issue, which may not have been fully inquired into in the course of the previous investigation.

Proviso as to admission of appeals from inferior to superior Courts.

Fourth.—Provided, however, and it is hereby enacted, that nothing contained in the preceding clause shall be construed to bar the admission of a further appeal on the part of the Revenue-authorities to the Court of Sadr Díwání Adálat, from decisions passed in the first instance in the Zila Courts, in cases of the nature described and specially provided for in section 6, Regulation XIV. 1825,[a] nor the admission by those tribunals of the special appeal on the application of the party opposed to Government under the rules in section 26, Regulation II. 1819.[b]

Appeals from Board's decisions to be kept distinct.

Fifth.—Appeals filed in the established courts of civil judicature to contest decisions of the Board of Revenue, shall be kept on a file or register distinct from that on which other suits before those Courts are entered.

11. *First.*—[*Repealed by Act No. XVI of 1874.*]

Persons succeeding to possession of lands revenue-free or on mukarrarí jama, to report to Collector.

Second.—Persons succeeding to the possession of any lands held free of assessment or held on a mukarrarí jama, on the decease of a former occupant, or by gift, purchase or other assignment or transfer of proprietary right, are hereby required immediately to notify the same to the Collector or other officer exercising the powers of Collector within the district in which the land may be situated, and any omission to notify such succession or transfer for a period of six months or more, shall subject such land to immediate attachment by the Revenue-officers.

Nor shall land so attached be restored to the party who may claim to hold it, though the validity of the tenure be subsequently established to the satisfaction of the Revenue-authorities, until such party shall have paid to Government a fine equal to one year's rent, and if the revenue derivable from the land be not awarded to be the right of the individual, the party shall further be required to refund the amount of the collections made by him, with interest thereon at the rate of twelve per cent. per annum; provided, also, that the said rent and collections shall be estimated according to the assessment demandable from the raiyats at the time of attachment.

[a] See *supra*, p. 230.

[b] See *supra*, p. 141.

Investigation of claims to recover possession of attached lands.

Third.—Where the lands of any individual may be attached under the above rule, any claim which he may prefer to recover possession thereof, and to hold the same free of assessment or on a mukarrarí jama, shall be investigated and determined by the Collector under the provisions of Regulation II. 1819,[a] as modified by the present Regulation and by those which have been intermediately enacted.

Unregistered tenures liable to resumption, unless declared hereditary by decree of competent authority.

12. All tenures which may not have been duly registered in the manner prescribed by the Regulations, or of which the specification contained in the register shall not purport the same to be held under an hereditary title or as a perpetual endowment, shall be and be held to have been liable to resumption, unless the same may have been declared hereditary by a final decree of a competent court of judicature, on the demise of the persons who were in possession at the dates respectively of Regulations XIX[b] and XXXVII.[c] 1793, Regulations XLI[d] and XLII.[e] 1795, Regulations XXXI[f] and XXXVI.[g] 1803, Regulations VIII[h] and XII.[i] 1805, according as the lands may be within the districts to which those Regulations are severally applicable, or in other parts of the country at the date at which the same came into the possession of the British Government.

And Collectors and other officers exercising the powers of Collector shall accordingly proceed to assess, and, if necessary, attach, all lands liable to resumption as above, in the same manner and with the same powers as they are authorized and required to proceed in the case of a lapsed farm, anything in the existing Regulations to the contrary notwithstanding.

Provided further, that the nature and extent of the interests vested in the holders of lands and rents exempted from assessment shall, when the title-deeds are forthcoming, and their authenticity recognised, be construed and defined with reference to the whole of the matter contained in such deeds, and not merely by the designation of the tenure. Jágírs consequently shall not be held to be life-tenures in cases in which the recital of the grant shall be such as clearly to convey an hereditary interest: nor shall any tenures, howsoever designated, be considered to be hereditary and perpetual, if the grants under which they are held shall not convey, in express terms, an hereditary or perpetual interest.

Sundarbans declared property of State, and Government competent to

13. *First.*—The uninhabited tract known by the name of the Sundarbans has ever been, and is hereby declared still to be, the property of the State: the same not having been alienated or assigned to zamíndárs, or included in any way in the arrangements of the perpetual settlement, it shall therefore

[a] See *supra*, p. 141. [b] See *supra*, p. 32. [c] See *supra*, p. 46.
[d], [e], [f], [g], [h] Repealed by Act No. XIX of 1873. [i] See *supra*, p. 75.

be competent to the Governor General in Council to make, as heretofore, grants, assignments and leases of any part of the said Sundarbans, and to take such measures for the clearance and cultivation of the tract as he may deem proper and expedient. make grants and to take measures for its clearance.

All parties to whom such grants, leases or assignments shall have been made, or to whom they may hereafter be made, shall be entitled to hold or to take possession of any tract of Sundarban jangal so granted or assigned without question or opposition, and all public officers shall aid and assist the same. Grantees' right.

Provided also, that if any zamíndár, taluqdár or other sadr málguzár or any other person owning and occupying or collecting the rent or revenue of cultivated land in the neighbourhood of the land so granted, leased or assigned shall sue in any Court of Adálat or before a special Commissioner under this Regulation, to contest the validity of the title or the right of possession of any such lessee or grantee, under such grant, lease or assignment, then if the land aforesaid shall be proved to be, or to have been, or be not denied to be or to have been, when so granted, leased or assigned, within the limit of the unoccupied jangal so named and described, the suit shall be dismissed with costs. Suit to contest such right.

Provided, however, that if any zamíndár, taluqdár or other person aforesaid, shall claim to possess a valuable interest in any part of the Sundarbans, by virtue of authority to collect money or other valuable thing from the persons engaged in gathering wax, or cutting wood or obtaining other jangal-products of the tract, or by virtue of any other similar privilege or advantage which may have been recognised as part of the assets on which the assessed revenue of his zamíndárí, taluqdárí or other tenure was adjusted at the time of farming the perpetual settlement of the district, and the collection of which was not subsequently stopped and due compensation made under the rules relative to the collection of sáír revenue or other similar arrangement, such zamíndár, taluqdár or proprietor shall be entitled to receive from Government compensation for any diminution in the value of such interest and advantage consequent on the arrangements adopted for the cultivation of the Sundarbans; the same being duly established after an investigation conducted under the rules of Regulation II. 1819,[a] as modified by this Regulation. Compensation to zamíndár claiming valuable interest.

Second.—The boundary of the Sundarban jangal shall be laid down by accurate survey, as determined on the spot by the Commissioner of the Sundarbans; and any zamíndár, taluqdár or party interested shall be entitled, on application made through the Commissioner, and on payment of the charge of preparing the same, to receive a copy of the survey-map or of any part of Determination of boundaries. Right of zamíndár to copy of map and proceedings.

[a] See *supra*, p. 141.

the same, with the boundary marked there as so determined, together with a copy of the Commissioner's proceedings on the subject.

Petition for investigation by party aggrieved by demarcation.

Any party deeming his right injured by the demarcation so laid down shall be at liberty, at any time within three months from the date of the Commissioner's proceeding fixing the same (which proceeding shall always be held and published on the spot), to contest the same by petition to a special Commissioner under this Regulation having local jurisdiction for the time being (or, if no such jurisdiction exist, to the ordinary Courts of Justice by which the case is cognizable), praying further investigation ;

Plea admissible.

provided that no plea of objection against the line of demarcation laid down shall be heard or admitted, excepting only such as shall declare and offer proof that at the time of survey a specific quantity of land, or land with defined limits, was in the occupation of the petitioner cleared and under cultivation, which, by the line of demarcation adopted, is placed within the Sundarban tract belonging to Government.

Every such application so made shall be regarded as a claim to hold the tract claimed free of the public assessment, and shall be investigated and decided under the rules of Regulation II. 1819,[a] as modified by this Regulation.

Rules of practice for regulating the proceedings of the special Commissioners appointed under Regulation III. 1828.

Passed on the 21st of August 1828.

Sarishta : Registry of cases transferred to Commissioners, and received in appeal.

1. THE several cases which may be received for trial by each Commissioner, whether transferred by the Courts of Justice or Boards of Revenue, or received on appeal by parties, shall be regularly numbered and entered on separate file-books, according to the following classification, *viz.* :—

one file for cases of lákhiráj lands or tenures claimed to be held free of all rent ;

one file for cases of claims to hold land at mukarrarí, or fixed, jama, or to resist the assessment of land on the plea that it is included in settled estates, such as hálábád, nauábád, taufír and patitábádí lands ;

one file for new chars and jangal-lands claimed as the absolute property, and at the disposal, of Government.

Each file to be kept according to the form (A) annexed.

Each Commissioner to entertain

2. Each Commissioner is to entertain a muháfiz daftar, who is to have special charge of the records of cases to be heard and determined, for the safe

[a] See *supra*, p. 141.

custody of which that officer shall be held responsible, and all officers who may be employed by the Commissioners in the execution of the duty confided to them shall be considered as exclusively under their control.

muháfiz daftar, and held responsible for records.

3. Whenever the record of any cause may be transferred by a Court of Justice to a special Commissioner, under the rule contained in the fourth clause of section 2, Regulation III. 1828, the Commissioner shall, in a Persian rúbakárí acknowledge the receipt of the record, and request the Court to intimate the transfer to all parties connected with the suit who may have appeared before it.

Admission of appeals: Notice to parties in suits transferred from Courts.

The Commissioner shall further issue a notice according to the form in use in the Courts of Justice, to be served through the zila or city Court within the jurisdiction of which the lands may be situated, requiring their attendance for the purpose of prosecuting or defending the suit, as the case may be; all notices of the above description which it may be necessary to issue to any officer on the part of Government shall be served as hereinafter directed.

4. In all cases which may be transferred to a special Commissioner by a Board of Revenue, under the provisions of the sixth clause of section 2, Regulation III. 1828, the Board shall be requested to notify the transfer to the parties or their agents who may have appeared before them, and notices similar to those prescribed in the preceding section shall be issued for the attendance of the parties, to be served through the Judge of the zila or city Court within the jurisdiction of which the lands may be situated.

Similar notices in cases transferred from Revenue Boards.

5. Whenever any person who may be dissatisfied with a decision passed by a Collector shall, under the option given in the second clause of section 4, Regulation III. 1828, present his petition of appeal to the Collector by whom the decision has been passed, it shall be the duty of that officer, after having had a complete copy of the record of the case made for retention in his own office, to transmit the original record of the suit, accompanied by an accurate list of all the papers contained in it, to the office of the special Commissioner of the division: in making a transcript of the record previous to transmission, the Collector is to be specially careful that all sanads and other documents are accurately and faithfully copied for record in his office; and the original record is, in all practicable cases, to be transmitted within fifteen days from the date on which the petition of appeal may be filed.

Procedure of Collectors on petitions of appeal.

6. On the same day on which the original record of any case appealed may be transmitted from the Collector's office to that of the special Commissoner of the division, the Collector shall issue a notice to the appellant, apprising him thereof, and requiring him to attend the Commissioner, either in person or by an authorized agent, for the purpose of prosecuting his appeal within six weeks from the date of the receipt of such notice: if any

Notice of transmission of record to appellant and parties.

other person, not being an officer of Government, shall have been a party to the case, a similar notice shall be issued to such person, and the due service of such notices shall, on their being returned to the Collector, be certified by him to the special Commissioner.

Notice to Government agent at Commissioner's kachahrí of admission of appeal.

7. It shall likewise be the duty of the Collector, on the transmission of the record of any case appealed as above specified, to give notice of the admission of such appeal by parwána addressed to the officer who may be appointed, as hereinafter provided, agent on the part of Government at the kachahrí of the special Commissioner.

Accompaniment to petition of appeal to Commissioner.

8. Every petition of appeal from the decision of a Collector, preferred direct to a special Commissioner under the rule quoted in section 5, or from the decisions of a Board of Revenue under the provisions of the fifth clause of section 2, Regulation III. 1828, shall invariably be accompanied by a duly authenticated copy of the decree appealed from; and on the admission of an appeal so preferred, the special Commissioner shall, when the decision appealed from may have been passed by a Collector, issue a precept to that officer, requiring him, within a specified time, to transmit the original record of the cause to the office of the special Commissioner, a copy of the record being retained by the Collector, as provided in the fifth section of these rules;

Procedure of Commissioner on admission of appeal from decision of Collector,

and on appeal from Revenue Board.

in cases when the appeal admitted as above shall be from a decision passed by a Board of Revenue, the special Commissioner shall, by a Persian rúbakárí, require such Board to transmit to his office the original record of the case (a copy being similarly retained) within a specified period.

Notice of admission of appeal to parties not appellants or Government officers.

9. When an appeal may be admitted by a special Commissioner under the rules contained in the two preceding sections, if there shall appear, on a perusal of the decree appealed from, to be any individuals interested in the issue of the appeal besides the appellants and the officers of Government, it shall be the duty of the special Commissioner to direct a notice of the nature described in section 6 of these rules, to be served on such persons through the zila or city Courts within the jurisdiction of which they may reside, and the due service of such notice shall be certified by the Judge of such Court in reply to the precept issued to him by the Commissioner.

Judges to certify service of notice.

Service of notice to parties in cases referred to special Commissioners.

10. In cases which may be referred to the special Commissioners by the Revenue Boards under the provisions of the fourth clause of section 4, Regulation III. 1828, the notice therein directed to be issued for the attendance of the respondents as well as any notice which it may appear proper to the Commissioners to issue for the attendance of any other party, not being an officer of Government, shall issue through, and be served by, the Judge of the zila or city Court of the district in which the respondent or such party may respectively reside.

When Collectors to stay execution in cases appealed.

11. With reference to the provisions of clause third, section 4, and clause second, section 6, Regulation III. 1828, it is provided that, whenever a petition of appeal shall be preferred to a Collector against a decision passed by him, declaring land liable to assessment, or when a Collector may have reason to believe that it is the intention of the party against whom such decision may have been passed, to appeal therefrom within the period limited by the above Regulation, he shall not proceed to carry the decree into execution until after the expiration of that period, unless he shall be sooner apprised that an application on the part of the appellant to stay execution of the decree has been rejected by the special Commissioner, in which case, or otherwise after the expiration of the period limited for appealing, he may proceed to execute the decree, unless prohibited from so doing by order of the special Commissioner.

When Commissioner to order execution to be stayed.

12. Provided also, that in cases in which the petition of appeal may be filed before a special Commissioner, if, on a perusal of the decree, he shall see reason to direct execution thereof to be suspended, an order to that effect shall be issued to the Collector, along with the requisition for the original record of the cause directed to be issued in the eighth section of these rules.

Stamp for petition.

13. Every petition of appeal from the decision of a Board of Revenue or of a Collector, which may be preferred to a special Commissioner under the provisions of Regulation III. 1828, shall be written on stamped paper of the value of one rupee.

Grounds of appeal may be set forth in petition or in separate pleading.

14. It shall be at the option of the appellant to enter the grounds of his appeal in detail in the petition for the admission of his appeal, or to reserve his arguments to be brought forward in a separate pleading, but in the event of his adopting the latter course, such pleading shall be written on stamped paper value one rupee.

Reply of Government to be on same paper, and always put in.

15. In appeals wherein an officer of Government is the party respondent, the reply to be filed to the grounds of appeal is to be written on stamped paper value one rupee, and a reply, either in express refutation of the pleas of the appellant, or generally resting the defence on the grounds recited in the decree appealed from, shall be required in every case.

In cases referred by Boards for revision, Boards to direct pleading containing grounds of dissatisfaction to be filed.

16. In cases referred by the Revenue Boards for revision to the special Commissioners under the rule in clause fourth, section 4, Regulation III. 1828, the Board referring the case shall be required, in reply to the reference, to direct the Superintendent and Remembrancer of Legal Affairs or some other public officer to file a pleading containing the grounds on which the Board are dissatisfied with the Collector's decree, and such pleading shall be written on stamped paper value one rupee.

Stamp for reply of respondent.

17. The reply of the party opposed to Government in cases of the above description shall likewise be written on stamped paper value one rupee.

Admission of further pleadings.

18. No miscellaneous petition or pleading of any kind, beyond the wujúhát of the appellant, and the reply of the respondent shall be admitted, unless on a verbal representation by the parties or their agents, before the Commissioner, such additional pleading or miscellaneous petition shall appear necessary, but when admitted to be so by the Commissioner and allowed to be filed it shall be written on stamped paper value one rupee.

Rule not to apply to petitions for suspending execution pending appeal.

19. The foregoing rule is not, however, to be construed to prevent the admission by the special Commissioners of petitions presented solely for the purpose of staying execution of decrees, which petitions may be received and acted on at any time pending the decision of an appeal.

Stamp for petitions for review.

20. With reference to the provisions for a review of judgment contained in the fifth clause of section 4, Regulation III. 1828, it is provided that all petitions for review of judgment which may be presented to the special Commissioners shall, if presented within two calendar months from the date of the decision of which review is prayed, be written on stamped paper value one rupee: but if presented after the expiration of the above period, such petition shall be written on the stamped paper prescribed in section 13, Regulation I. 1814,[a] calculated at the computed annual produce of the land in dispute.

Rules as to default; appellant defaulting for six weeks to have notice to appear.

21. If any appellant shall not, within the period of six weeks from the date of instituting his appeal if preferred direct to a Commissioner, or, if filed at the Collector's office, from the date on which he may receive notice that the record of the case has been transmitted to the Commissioner, either attend in person or appoint an agent as hereinafter provided and prosecute his appeal, a further notice shall be issued by the Commissioner, through the zila or city Court, requiring such appellant to attend and prosecute his appeal within fifteen days from the date of the receipt of such notice.

Service of notice.

If the peon charged with the service of the notice cannot serve it upon the appellant personally, he shall proclaim the same at the dwelling of the appellant in the presence of witnesses, and such proclamation shall be deemed equivalent to personal service; and if the appellant shall afterwards omit or refuse to attend the Commissioner within the prescribed period, his appeal shall be dismissed with costs.

If appellant defaults after appointing agent, requisition to agent sufficient notice.

22. If an appellant, after having appointed an agent to plead his cause, shall neglect to prosecute the same for a period of six weeks, a requisition by the Commissioner to such agent to proceed in the case within fifteen days shall be held equivalent to a notice to the appellant, and in the event of his not so proceeding, his appeal shall be dismissed.

[a] Repealed by Reg. X of 1829.

Notices to Government officers to be delivered to Government agent.

23. All notices required to be served on any officer of Government concerned in a suit before the Commissioners, shall be delivered to the agent appointed on behalf of Government at each Commissioner's kachahrí, who shall give a receipt for the same, and transmit a copy thereof to the officer concerned, and return the original to be filed on the record.

If further evidence received, no stamp-fees leviable for witnesses or documents.

24. Should the special Commissioners, acting on the discretion vested in them, in common with the ordinary Courts of Justice, by the third clause of section 10, Regulation III. 1828, deem it necessary or proper to receive further evidence, oral or documentary, in any case depending before them, no stamp-fee shall be levied from the parties for summoning witnesses or filing exhibits.

Further evidence required, to be taken by Judge on specific points.

25. If, in any case, the special Commissioners shall deem the further evidence of witnesses necessary, they shall be summoned and examined by the Judge of the zila or city within which they may reside, on specific points indicated by the Commissioners and recorded on their proceedings.

Party may produce witness, or serve subpœna, himself.

If a party, at whose instance a witness may be summoned, will undertake himself to produce him, or to serve the subpœna on him, he shall be allowed to do so, otherwise the process shall be served by a peon of the Zila or City Court under the ordinary rules in force: the same course shall be followed whenever it may be considered necessary to examine a witness before any of the special Commissioners.

Parties may plead themselves, or appoint agents.

26. Every party whose case may be depending under Regulation III. 1828 before a special Commissioner shall be at liberty, if he chooses, to attend and plead his own cause in person, or to appoint a mukhtár or agent specially for that purpose.

Power-of-attorney to agent to be executed and filed.

27. Every person who may appoint an agent, as above authorized, shall execute a regular power-of-attorney in such agent's name, and the execution of such instrument, which may be written on unstamped paper, shall be attested by some European public officer, and it shall be filed on the record of the case.

Choice of agents by parties.

28. The parties in cases before the Commissioners are not to be restricted in the appointment of agents to any particular number of individuals, provided that the persons appointed shall appear to the Commissioners to be of good character and respectability.

Parties may settle with mukhtárs as to remuneration.

29. The parties shall be at liberty to make such arrangements in regard to remuneration for their services with the mukhtárs or agents whom they may appoint, as may be agreed on among themselves;

Settlement in case they disagree.

provided, however, that if, on the decision of the case, the parties shall disagree as to the sufficiency or otherwise of the terms agreed on, the amount shall be fixed by the Commissioner or Commissioners by whom the case is decided;

provided also, that if any mukhtár shall (without waiting for the final adjustment of the matter as above provided for at the time of decision) decline to act further for his principal, he shall, if the latter demand it, be required to refund any sum which he may already have received for undertaking the conduct of the cause.

Mukhtárs subject to fine, &c., for neglect and misconduct.

30. Every agent or mukhtár who may be appointed to conduct a cause before the special Commissioners shall be subject to fines and other penalties for neglect, contempt of Court or other misbehaviour, to the same extent, and in the same manner, as the regular pleaders of the Courts of Justice are subject by the Regulations.

Agent to be appointed for Government, at each kachahrí where Commissioners sit.

31. An agent shall be appointed (if approved by Government) by the Superintendent and Remembrancer of Legal Affairs to attend on behalf of Government at each kachahrí where suits may be heard and determined by the special Commissioners, and such agent shall be remunerated by a fixed salary, or in such other manner as the Governor General may be pleased to determine; the agent so appointed shall, moreover, be liable to all the rules applicable to Government pleaders, as well as to the rules prescribed for the agents who may be employed by individuals to plead before the Commissioners.

Agents' remuneration, fixed by Commissioners, to be entered in decree as costs. Provision as to costs.

32. In giving judgment in each case, if the special Commissioners shall see reason to interfere in regard to the compensation to be paid by the parties to the agents employed to plead their cause, the amount of remuneration finally authorized shall be inserted as costs at the foot of the decree; distinct provision shall likewise be made in every decree as to whether the party against whom it is passed is, or is not, to bear the whole or any portion of the expenses which may have been incurred by the party opposed to him, including, of course, costs of the nature indicated in the seventh clause of section 2, Regulation III. 1828, in cases to which that clause may be applicable.

Decree and three counterparts to be prepared: how to be disposed of.

33. The original decrees of the special Commissioners, intended to be kept with the records of the cases, as well as three counterparts, to be disposed of as underneath directed, are to be transcribed on plain paper, but of European manufacture exclusively; one counterpart shall, as soon as practicable, be delivered to the party opposed to Government; one counterpart shall be transmitted to the Collector of the district in which the land is situated; and the remaining counterpart shall be forwarded to the Board of Revenue or other Authority exercising the powers of a Board of Revenue, under the control of which such Collector may be placed.

Other copies to be made as directed by Regulations in force.

All other copies of the decrees of the Commissioners, which parties may require for private use, or as documents to exhibit in evidence, shall be made at the expense of the parties on plain or stamped paper, under the general

Regulations in force; but such copies shall only be permitted to be prepared by persons duly authorized by the Commissioners.

In transmitting counterpart to Collector, Commissioner how to instruct him.

34. In transmitting a counterpart of the decree, as above directed, to the Collector, the Commissioner by whom it may have been passed shall accompany it by instructions to that officer to carry it into immediate execution, and to report within a given period the measures which he may have adopted for that purpose.

Commissioners to be guided by Regulations in trial of appeals.

35. In all matters not specially provided for in the foregoing rules or in Regulation III. 1828, the course of proceeding shall be conformable to the rules in force for the guidance of the Courts of Justice in the trial and decision of regular appeals.

Commissioner proposing new rules to submit to Government, with his draft, the opinions of other Commissioners.

36. With a view to ensure uniformity in the proceedings and practice of the several special Commissioners appointed to act under Regulation III. 1828, it is hereby provided that, whenever it may be deemed necessary by any special Commissioner to propose rules of practice, either original or in modification of the present rules, he shall transmit a draft of such rules to each of the other Commissioners acting under the Regulation, with a request that they will record their sentiments on the expediency or otherwise of the proposed rules, so that the draft, when transmitted for the consideration of Government by the Commissioner with whom it may originate, may be accompanied by the observations of all the Commissioners.

FORM (A).

REGISTER of Lákhiráj Cases before the Special Commissioner appointed under Regulation III. 1828, for the Division of————.

Number of Appeal.	Names of Parties.	District in which the Land is situated.	Substance of the Decree appealed from.	Date of the Decree appealed from.	Date of Appeal.	Date and substance of Final Decision.

REGULATION IV OF 1828.

Passed on the 7th of August 1828.

A Regulation to declare and extend the powers to be exercised by Collectors, when making or revising settlements, under the provisions of Regulation VII. 1822.[a]

Preamble.

1. WHEREAS it appears to be expedient that the powers specified in section 16, Regulation VII. 1822,[b] should be generally vested in Collectors and other officers performing the duties of Collectors, when employed in making or revising settlements according to the provisions of that law, and that the jurisdiction of the said officers in such cases should not be barred by summary decisions passed by Magistrates or Joint Magistrates, the following rules have been enacted, to be in force from the date of their promulgation throughout the Provinces subject to the Presidency of Fort William.

2. *First, Second, Third.*—[*Repealed by Regulation IX of 1833, section 4.*]

Period during which Collectors are to be considered to be engaged in making and revising settlements.

Fourth.—To prevent doubts as to the period for which Collectors and other officers aforesaid are to possess the powers vested in them by this Regulation and by Regulation VII. 1822, in regard to any mahâls of which the settlement may have been, or may be about to be, made or revised, it is hereby declared and enacted that they shall be held and considered to be engaged in making and revising such settlement from the date on which they have issued or may issue orders for adjusting the boundaries, for measuring any of the lands or for making a census of the inhabitants of any village or portion of a village belonging to such mahâl, of which intimation shall be given to the Magistrate or Joint Magistrate within whose division the village shall be situated, up to the day on which they may be informed that the settlement, as made and revised by them, has been finally confirmed by Government.

During the aforesaid period Magistrates and Joint Magistrates shall be guided, in respect to such mahâls, by the provisions of clause second, section 34, Regulation VII. 1822, by which they were required to refer to the Revenue-authorities disputes regarding lands, premises, crops, water-courses and the like.

And all Police-officers are required to give immediate and efficient support to Collectors and other Revenue-officers in the execution of their duties.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

[b] See *supra*, p. 178.

REGULATION I OF 1829.

Passed on the 1st of January 1829.

A Regulation for constituting Commissioners of Revenue and Circuit; for establishing a sadr Board of Revenue; for modifying the constitution of the Provincial Courts; for transferring to the said Commissioners the functions now exercised by the Superintendents of Police and those of the mufassal special Commissioners, acting under the provisions of Regulation I. 1821; and otherwise for providing for the better administration of civil and criminal justice.[a]

Preamble.

1. THE system in operation for superintending the Magistracy and the Police, and for controlling and directing the executive Revenue-officers, who in several cases are also Magistrates, has been found to be defective.

The Provincial Courts of Appeal and Circuit, as now constituted, partly from the extent of country placed under their authority, and partly from their having to discharge the duties of both civil and criminal tribunals, have, in many cases, failed to afford that prompt administration of justice which it is the duty of Government to secure for the people.

The gaol-deliveries have been, in some instances, delayed beyond the term prescribed by law, especially in the division of Barelí, which comprises thirteen stations at which gaol-deliveries have to be held, besides the Joint Magistracies of Bílá and Sirpurá; and a great arrear of cases under appeal has accrued in all the Courts, to the manifest injury of many individuals, and to the encouragement of litigation and crime.

The Judges of Circuit, when employed singly in the districts under their authority, do not possess sufficient powers, nor have they the opportunity of acquiring sufficient local knowledge, to enable them adequately to control the Police or protect the people.

The great extent of country under each of the Boards of Revenue has similarly operated to impede them in the execution of the duties which belong to them as tribunals for the determination of all questions relative to the assessment of lands under settlement and for the judicial decision of many other important cases, as the general guardians of the fiscal interests of the State,

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

as directors and superintendents over the executive officers, and as the confidential advisers of Government.

For the correction of the above defects, it has appeared to be expedient and necessary to place the Magistracy and Police, and the Collectors and other executive Revenue-officers, under the superintendence and control of Commissioners of Revenue and Circuit, each vested with the charge of such a moderate tract of country as may enable them to be easy of access to the people, and frequently to visit the different parts of their respective jurisdictions; to confide to the said Commissioners the powers now vested in the Courts of Circuit, together with those that belong to the Boards of Revenue, to be exercised, with the modifications hereinafter provided, the former under the authority of the Nizámat Adálat, and the latter under the instructions and control of a Sadr or Chief Board of Revenue, and altogether to disjoin the functions of the Courts of Circuit from those of the Judges of Appeal.

It has, at the same time, appeared to be necessary, with a view to the more speedy and effectual redress of the wrongs which the people have suffered in several of the districts of the Western Provinces, under the circumstances detailed in the preamble of Regulation I. 1821,[a] to transfer to the said Commissioners of Revenue and Circuit the powers and authority now exercised by the mufassal special Commissioners acting under the provisions of that law, with certain modifications hereinafter specified.

It has likewise been deemed expedient to extend the system of administration which has been for some years followed in Katak to the adjoining district of Mednípur, and to certain other districts in the vicinity of tracts of which the affairs are conducted on similar principles: and further, with a view to public economy, it has been deemed proper to abolish the office of Superintendent of Police, the necessity for which is superseded by the appointment of Commissioners.

With the above views and purposes, the Governor General in Council has enacted the following rules, to be in force from the 1st March, 1829, throughout the Provinces immediately subject to the Presidency of Fort William.

Appointment of Commissioners of Revenue and Circuit for divisions specified.

2. A Commissioner of Revenue and Circuit shall be appointed for each of the under-mentioned divisions: provided, however, that it shall be competent to the Governor General in Council, by an Order in Council, to transfer any district or districts from one division to another, and to increase or reduce the number of Commissioners, if such a measure shall appear to be necessary or expedient; due notice of any such arrangement being given by public proclamation.

[a] Repealed by Act No. VIII of 1868.

1st Division to contain the districts under the Magistrates, Collectors, Joint Magistrates and Sub-Collectors of	...	...				Saháranpur, Muzaffarnagar, Merath and Bulandshahr.
2nd Ditto	...	ditto of	...	...	...	Ágra, Alígarh and Sa'dábád.
3rd Ditto	...	ditto of	...	...	...	Farrukhábád, Mainpurí, Sirpurá and Itáwá.
4th Ditto	...	ditto of	...	...	...	Murádábád, Nagíná and Sahaswán.
5th Ditto	...	ditto of	...	...	...	Barélí, Sháhjahánpur and Pílíbhít.
6th Ditto	...	ditto of	...	...	...	Kánhpur, Bílá and N. Bundelkhand.
7th Ditto	...	ditto of	...	...	...	Allahabad, Fatehpur and Bándá.
8th Ditto	...	ditto of	...	...	...	Benares, Mirzápur and Jaunpur.
9th Ditto	...	ditto of	...	...	...	Gorakhpur, A'zamgarh and Gházípur.
10th Ditto	...	ditto of	...	...	...	Sáran, Sháhábád and Tirhút.
11th Ditto	...	ditto of	...	...	...	Patná, Bihár and Rámgarh.
12th Ditto	...	ditto of	...	...	...	Bhágalpur. Monghyr, Máldah and Purniyá.
13th Ditto	...	ditto of	...	...	...	Dinájpur, Rangpur, Rájsháhí and Bagurá.

14th Division to contain the districts under the Magistrates, Collectors, Joint Magistrates and Sub-Collectors of	...	...	Murshidábád, Bírbhúm and Nadiyá.				
15th Ditto	...	ditto of	..	...	...	Dháká, Dháká Jalálpur,[a] Tipperah and Maimansingh.	
16th Ditto	...	ditto of	...	...	...	Chittagong and Noakhálí	To be placed under the officer appointed to control the affairs of Arakan.
17th Ditto	...	ditto of	...	...	...	Sherpur and Silhat	To be placed under the Commissioner of Assam and the N. E. parts of Rangpur.
18th Ditto	...	ditto of	...	...	...	Bákirganj, Jessore, Suburbs of Calcutta,[b] 24-Parganas and Bárásat.	
19th Ditto	...	ditto of	...	...	...	Katak, Khordha, Balasore, Mednípur and Nagwán, including Hijli.	
20th Ditto	...	ditto of	...	...	...	Burdwan, Jangal Maháls and Húglí.	

3.—[*Repealed by Act No. XVI of 1874.*]

Commissioners to have powers of Boards of Revenue and Courts of Wards.

4. *First.*—The said Commissioners shall, until otherwise specifically provided for by law, possess and exercise within the several districts comprised in their respective divisions, the powers and authority now vested in the Boards of Revenue and Courts of Wards, subject to the control and direction of a Sadr or Head Board, to be ordinarily stationed at the Presidency, unless otherwise directed by the Governor General in Council; and to such restrictions and provisions as the Governor General in Council or the said Sadr Board, with his authority or sanction, may prescribe.

Sadr Board and Commissioners how guided as to form of their revenue-proceedings.

Second.—In regard to the form of their proceedings in the Revenue Department, the Commissioners and the Sadr Board shall be guided by such orders as the Governor General in Council may from time to time issue, and it shall be competent to the Governor General in Council to fix the stations at which the Board and the Commissioners, when not employed on the duties of circuit,

[a] Zila Dháká Jalálpur was abolished by Regulation V of 1833.
[b] The zila of the suburbs of Calcutta was abolished by Regulation VIII of 1832.

shall reside, at such places within the territories belonging to this Presidency, as may from time to time be deemed expedient.

Whe ntract within jurisdiction of Magistrate of one division, is under Collector of another division.

Third.—Provided also, that in cases in which any tract of country that belongs to the jurisdiction of a Magistrate or Joint Magistrate of one division, may be under the authority of a Collector or Deputy Collector attached to another division, the Governor General in Council shall determine, by an Order in Council, the nature and extent of the powers to be exercised in regard to the revenue-affairs of such tract by the Commissioners respectively, with whose divisions it may be so jointly connected.

5.—[*Repealed by Act No. XVI of 1874.*]

Repeal of inconsistent provisions.

6. Such of the provisions of the existing Regulations for defining the duties and powers of the Revenue Boards and Courts of Wards, or of single members thereof, as may be inconsistent with the arrangement above prescribed, are, and shall be considered to be, annulled.

Offices of Superintendents of Police abolished.

7. The offices of Superintendents of Police in the Lower and Western Provinces are hereby abolished, and the provisions of Regulation X. 1808,[a] and other Regulations subsequently enacted in regard to the said offices, are hereby rescinded:

Commissioners to perform duties of Superintendents, except as to tender of pardon to accomplices.

provided, however, that the Commissioners of Revenue and Circuit shall and may, for their respective divisions, perform all the duties and exercise the powers heretofore belonging to the Superintendents of Police, save and except those vested in them by Regulation X. 1824,[b] in regard to the pardon of persons charged with or suspected of criminal offences previously to the trial of the case at sessions.

The several Magistrates and Joint Magistrates are authorized to tender a pardon in the several cases specified in the said Regulation, without reference to any other authority, subject to the other provisions therein contained, and under their general responsibility to the superior Courts and Government for the sound exercise of the discretion vested in them.[c]

Powers of Commissioner of Katak and Mednípur.

8. The Commissioner for the division of Katak *and Mednípur* shall possess and exercise, throughout the districts under his authority, the same powers as belong to him in the first-mentioned Province.[d]

But so much of clause fifth, section 5, Regulation V. 1818,[e] as provides that the decisions passed by the Commissioner in original civil suits, or in appeals cognizable by him, shall, with the exception therein stated, be final, is

[a] Repealed by Act No. VIII of 1868.
[b] Repealed by Act No. XVII of 1862.
[c] See Act No. XXIV of 1837, sections 1 and 2.
[d] So much of this section as confers upon the Commissioner for the division of Katak the powers of a Provincial Court of appeal, in regard to the division of Mednípur, is repealed by Regulation I of 1830, section 2.
[e] Repealed by Act No. VIII of 1868.

hereby rescinded: and the Commissioner shall accordingly, in his capacity of a Judge of Appeal, be subject to the Sadr Díwání Adálat, in like manner as other Provincial Judges: provided also, that, in the Revenue Department, the Commissioner shall be subject to the Sadr Board, in like manner as the Commissioners of other divisions.[a]

Powers of Commissioners of Arakan and Assam.

9. *First.*—The Commissioners of Arakan and Assam shall possess and exercise, within the districts of Bengal which are by this Regulation attached to their respective divisions, the same powers as belong to the Commissioner of Katak, modified as above.

REGULATION XVII OF 1829.

Passed on the 4th of December 1829.

A Regulation for declaring the practice of satí or of burning or burying alive the widows of Hindús illegal and punishable by the criminal Courts.[b]

Preamble.

1. THE practice of satí or of burning or burying alive the widows of Hindús is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindús as an imperative duty; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed: in some extensive districts it does not exist; in those in which it has been most frequent, it is notorious that, in many instances, acts of atrocity have been perpetrated, which have been shocking to the Hindús themselves, and in their eyes unlawful and wicked.

The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether.

Actuated by these considerations, the Governor General in Council, without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to establish the following rules, which are

[a] Partially repealed by Regulation I of 1830.

[b] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

hereby enacted to be in force from the time of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

Satí declared illegal and punishable.

2. The practice of satí or burning or burying alive the widows of Hindús is hereby declared illegal and punishable by the criminal Courts.

Zamíndárs,&c., responsible for immediate communication to Police of intended sacrifice.

3. *First.*—All zamíndárs, taluqdárs or other proprietors of land, whether málguzárí or lákhiráj; all sadr farmers and under-renters of land of every description; all dependent taluqdárs; all náibs and other local agents; all Native officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards; and all mandals or other head-men of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest Police-station of any intended sacrifice of the nature described in the foregoing section; and any zamíndár or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint Magistrate in any sum not exceeding two hundred rupees, and in default of payment to be confined for any period of imprisonment not exceeding six months.[a]

Penalty in case of neglect.

Police how to act on receiving intelligence of intended sacrifice.

Second.—Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the Police-dárogha shall either repair in person to the spot, or depute his muharrir or jamadár, accompanied by one or more barkandázes of the Hindú religion, and it shall be the duty of the Police-officers to announce to the persons assembled for the performance of the ceremony, that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve themselves in a crime, and become subject to punishment by the criminal Courts.

Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony into effect, it shall be the duty of the Police-officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal person aiding and abetting in the performance of it; and in the event of the Police-officers being unable to apprehend them, they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the Magistrate or Joint Magistrate for his orders.

How to act when intelligence of sacrifice does not reach them

Third.—Should intelligence of a sacrifice declared illegal by this Regulation not reach the Police-officers until after it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the

[a] See the Indian Penal Code, Act No. XLV of 1860, section 176.

until after it has taken place.

spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the Magistrate or Joint Magistrate to whom they may be subordinate.

REGULATION V OF 1830.

Passed on the 9th of June 1830.

A Regulation for amending the provisions of Regulation VI. 1823, and for providing more effectually for enforcing the execution of contracts relating to the cultivation and delivery of Indigo-plant.[a]

Preamble.

1. WHEREAS the rules contained in Regulation VI. 1823 (extended to the Provinces of Orissa, Bihár and Benares, and to the Ceded and Conquered Provinces, by Regulation V. 1824[b]) for enforcing the execution of contracts relating to the cultivation and delivery of indigo-plant, have been found in a great measure ineffectual; and whereas it is deemed just and proper to extend the penalties prescribed by section 5, Regulation VII. 1819,[c] to contracts for the cultivation of indigo-plant, and to provide for the punishment of persons convicted of damaging indigo-crops;

and whereas it is desirable in certain cases to afford persons who may be unwilling to renew their contracts for the cultivation of indigo the means of obtaining, by summary process, a release from their engagements;

the following rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William.

2.—[*Repealed by Act No. VIII of 1868.*]

3.—[*Repealed by Act No. XVI of 1835.*]

4.—[*Repealed by Act No. III of 1857.*]

Procedure by persons wishing to be released from their engagements.

5. *First.*—Any person who, having received advances under a written agreement for the cultivation of indigo, shall be desirous, on the expiration of the period of his contract, to settle his account, shall be at liberty, in the event of the proprietor of the factory, or the person acting in his behalf, refusing to settle the same, to present a petition to the Zila Court;

[a] Sections 1 and 5 declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

[b] Repealed by Act No. XV of 1874.

[c] Repealed by Act No. XVII of 1862.

and the Judge, after a summary inquiry, in the presence of the parties or their authorized agents, into the merits of the case, shall, on proof of the expiration of the contract, and of there being no balance due from the petitioner, or if the petitioner shall deposit in Court the amount of any balance that may be adjudged to be due from him, grant the said petitioner a release from his engagement, and shall pay over the amount of any balance that may be deposited by him to the proprietor, or to the person acting in his behalf.

Procedure if proprietor objects to receive balance.

Second.—If the proprietor or person aforesaid shall refuse to receive the balance awarded to him by the summary process above provided, the Judge shall return the amount to the petitioner, leaving the defendant to seek his remedy by a regular suit.

REGULATION IV OF 1833.

Passed on the 3rd of May 1833.

A Regulation to provide more effectually for the management of convicts sentenced to labour and employed on the roads or public works under superintendents or their assistants appointed by Government, and to enable those officers to maintain good order and discipline among the convicts and their guards.

Preamble.

1. WHEREAS it is necessary in certain cases to vest the superintendents of roads and other public works or their assistants, who have the direction of the labour of convicts, with powers necessary to enable them to exert an efficient control over the convicts and the guards employed with them; the following rule has been enacted.

Power to vest superintendents of convicts on public works, with powers for their control.

2. It shall be competent to the Governor General in Council to vest superintendents of convicts employed on the roads and other public works, and assistants to such superintendents, with such powers for the above purpose as he may from time to time deem necessary.

REGULATION IX OF 1833.

Passed on the 9th of September 1833.

A Regulation to modify certain portions of Regulation VII of 1822 and Regulation IV of 1828; to provide for the more speedy and satisfactory decision of judicial questions cognizable by officers of revenue employed in making settlements under the above Regulations; for enforcing the production of the village-accounts; for the more extensive employment of Native agency in the Revenue Department; and to declare the intent of section 5, Regulation VII of 1822, touching claims to málikána.[a]

Preamble.

1. EXPERIENCE having demonstrated the expediency of modifying certain enactments of Regulation VII of 1822,[b] and Regulation IV of 1828,[c] also of providing a more speedy and satisfactory mode of deciding such judicial questions as may be cognizable by officers of the Revenue Department under those Regulations, and of declaring the intent of the rules regarding málikána promulgated by section 5, Regulation VII of 1822; it having been found expedient likewise that measures should be adopted for enforcing the production of the village-accounts, and for rendering them accessible to all persons concerned having occasion to examine them; also, that Natives of respectability should be employed in more important trusts connected with the revenue-administration; the following provisions have been enacted, to be in force from the date of their promulgation.

Repeal of provisions of Regulation VII. 1822, as to mode of determining jama to be demanded from mahál.

2. So much of Regulation VII of 1822 as prescribes, or has been understood to prescribe, that the amount of jama to be demanded from any mahál shall be calculated on an ascertainment of the quantity and value of actual produce, or on a comparison between the costs of production and value of produce, is hereby rescinded.

Repeal of provisions as to investigation of claims simultaneously with determination of Government demand.

3. So much of the above Regulation as prescribes, or has been understood to prescribe, that the judicial investigation into and decision on questions of disputed private claims shall be conducted simultaneously with the ascertainment of and determination on the amount of the Government demand, is hereby rescinded.

The Governor General in Council will hereafter determine the order in which the above matters shall be respectively disposed of.

[a] See Act No. XIII of 1848. [b] See *supra*, p. 178. [c] See *supra*, p. 260.

4.—[*Repealed by Act No. XVI of 1874.*]

5. In addition to section 33, Regulation VII of 1822,[a] it is hereby enacted that whenever any judicial question may be depending before a Collector or other officer employed in making settlements under the provisions of Regulation VII of 1822, in which the interests of justice may, in the opinion of such officer, require that the case be decided by arbitration, it shall be lawful for him to fix, under the instructions with which he may be furnished by the superior Revenue-authorities, a period within which the parties must produce the award.

When Collector making settlements considers arbitration necessary, he may fix period for production of award.

6. In that case, if the parties shall refuse or neglect to produce such award within the term limited, it shall be lawful for the Collector or other officer to summon a panchâyat, to be composed of three or five impartial and otherwise competent persons of good repute for the trial of the matter at issue.

When Collector may summon panchâyat.

7. After duly considering the statements and evidence offered by the parties, or, in case of the default or recusance of either, the statements and evidence produced by the party in attendance, the panchâyat shall declare their opinions, and judgment shall be recorded according to the sentence of the majority.

Procedure of panchâyat.

The superior Revenue-authorities will from time to time issue such rules of practice for the guidance of the officers employed on this duty, or the panchâyats, as they may consider necessary.

8. No appeal shall be allowed from such decisions which shall be immediately executed and maintained, unless the Commissioner, subject to the control of the Sadr Board of Revenue, should think proper, for any special reason, to direct that the case shall be submitted to another panchâyat for decision.

Bar of appeal: submission to second panchâyat.

9. Any suit brought before any Court of Justice to set aside a decision made in conformity with the above rules, shall be non-suited with costs.

Non-suit of suit to set aside decision.

10. In like manner any suit brought before any Court of Justice against the arbitrators, collectively or individually, appointed in conformity with the rules prescribed, to recover from them the value of the property lost by the decision founded on their award, shall be non-suited with costs.

Also suits against arbitrators.

11. It is hereby declared that the rules concerning málikâna contained in section 5, Regulation VII of 1822, were intended to have a prospective effect only, and to be applicable solely to settlements made under that Regulation, and to recusance tendered at the completion of such settlements.

Intention of rules as to málikâna in section 5, Regulation VII. 1822.

12. It is further enacted that the village-accounts which are required to be kept in such manner and form as has heretofore been the custom, or in such other mode as may hereafter be prescribed by the Boards of Revenue,

Village-accounts.

[a] See *supra*, p. 178.

shall be prepared in duplicate sets; one for deposit in the office of patwárí, and one for deposit in the office of Collector of the district in which the respective estates or tenures may be situated, and wherever the office of a kánúngo may be established, a third copy shall be prepared and deposited in that office.

Accounts to be furnished, &c.

13. The several accounts required for deposit in the pargana and zila revenue-offices, as above stated, instead of being delivered at the expiration of every six months, as prescribed by the rules at present in force, shall be furnished in such mode and at such periods as the Boards may direct.

They shall be open to the inspection of every person concerned, desirous of examining them.

14, 15.—[*Repealed by Act No. X of 1859.*]

Appointment of Deputy Collectors.

16. It shall be competent to the Governor General in Council to appoint to any revenue-jurisdiction a Deputy Collector, with the powers hereinafter specified.

Persons eligible to office, and how appointed.

17. The office of Deputy Collector shall be open to Natives of India of any class or religious persuasion.

The persons selected shall be appointed by the Governor General in Council, and shall receive their commissions from Government in the usual mode, under the signature of the Secretary in the Revenue Department.

Monthly allowance how fixed, and susceptible of increase.

18. The Deputy Collectors will receive a monthly allowance, to be fixed by the Governor General in Council, and to be susceptible of increase, from time to time, as their conduct may appear to entitle them respectively to such consideration.

19.—[*Repealed by Act No. X of 1873.*]

Subordination of Deputy Collectors.

20. The Deputy Collectors appointed under this Regulation are to be in all respects subordinate to the Collector under whom they may be placed, and are required to perform all duties assigned to them by that functionary.

Duties in which Collectors may employ them.

21. It will be at the discretion of the latter officer to employ them in settlement-duties under the provisions of Regulation VII. 1822,[a] in the superintendence of the Government khás mahál, and generally in the transaction of any other part of the duties of a Collector.

Their proceedings how recorded and how appealable.

22. All proceedings held by a Deputy Collector appointed under this Regulation shall be recorded in his own name and on his own responsibility, subject to the revision and control of the Collector, and appealable to the superior authorities in the usual course.

Collector may resume duties committed to Deputy.

23. Provided, always, that the Collector is competent to resume the duties which he may have committed to the Deputy, assigning his reasons for so doing for the information of the Commissioner.

[a] See *supra*, p. 178.

24. Provided also, that the Revenue Commissioners, whenever they think proper, may interfere with any arrangements made by the Collectors for the employment of the deputies, or the distribution of business to be assigned to those functionaries, subject to the general control vested in the Sadr Board of Revenue or the Government, as the case may be.

Interference by Commissioners with arrangements of Collectors for employment of Deputies.

25. A Deputy appointed under this Regulation shall not be removeable but for misconduct, and with the sanction of the Governor General in Council.

Rules regarding dismissal of Deputy Collectors.

Whenever there may be reason to believe that a deputy is disqualified by neglect, incapacity or corruption for continuance in office, a report shall be submitted by the local authorities, through the channel of the Sadr Board of Revenue, for the consideration of the Governor General in Council, who shall be competent to suspend him, and order a further inquiry into the conduct of such Deputy, or to direct his immediate dismissal, as may appear just and proper.

PART II:

THE UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL RELATING TO THE LOWER PROVINCES.

ACT No. II of 1835.[a]

Passed on the 12th of January 1835.

Control of officers in Assam in civil, criminal and revenue matters.

BE it enacted that the functionaries who are or may be appointed in the Provinces of Assam, *Arakan and Tenasserim* be henceforth placed under the control and superintendence, in civil cases, of the Court of Sadr Díwání Adálat, in criminal cases, of the Court of Nizámat Adálat, and in revenue cases, of the Sadr Board of Revenue; and that such control and superintendence shall be exercised in conformity with such instructions as the said functionaries may have received, or may hereafter receive, from the Government of Fort William in Bengal.

ACT No. VI of 1835.

Passed on the 13th of March 1835.

Control of officers in Káchár.

BE it enacted that the functionaries who are or may be appointed to the superintendence of the territory of Káchár be henceforth placed under the control and superintendence, in civil cases, of the Court of Sadr Díwání Adálat, and in criminal cases, of the Court of Nizámat Adálat; and that the officers so appointed in the territory of Káchár be placed, in revenue cases, under the control and superintendence of the Sadr Board of Revenue; and that such control and superintendence of the Sadr Court and Board shall be exercised in conformity with such instructions as the said functionaries may have received, or may hereafter receive, from the Government of Fort William in Bengal.

[a] Repealed, as to Arakan and Tenasserim, by Act No. XII of 1862.

ACT No. X of 1836.[a]

Passed on the 11th of April 1836.

1.—[*Repealed by Act No. XIV of 1870.*]

Security to be given by person desiring to remove indigo-plant ordered to be delivered to him.

2. Whenever the right to indigo-plant may be contested and an order shall be passed under the provisions of clause ninth,[b] section 3, Regulation VI. 1823 of the Bengal Code, for the delivery of indigo-plant to one of the parties claiming the same, such party shall not be allowed to cut or remove the indigo-plant until he shall have given sufficient security to the satisfaction of the Court trying the case, to make good any claim that shall be ultimately established to such indigo-plant, whether arising from a prior right to the produce of the land, or from an arrear of rent due on account of the specific parcel of land from which the plant may have been produced.

Right of suit of person making advances for cultivation or delivery of indigo-plant when breach of contract is induced by third person.

3. When a lawful contract shall have been made between a raiyat and another party, by which contract the raiyat shall have bound himself to cultivate indigo-plant for the other party, or to deliver indigo-plant to the other party, and when the other party shall have advanced money to the raiyat for the purpose of enabling the raiyat to fulfil such contract, then if any other person, knowing that such contract exists and that such advance has been made, shall prevail upon the raiyat to break such contract, the party who made the advance shall be entitled to proceed by civil action against the person who shall have so prevailed on the raiyat, as well as against the raiyat, and to recover from him or them, jointly or severally, damages to the extent of the injury sustained, together with costs of suit.

Bar of suit for act done to recover debt or secure performance of lawful contract.

Provided always, that nothing in this section contained shall be construed to give a right of action against any person in consequence of any act which that person may have done for the purpose of procuring payment of a debt or performance of a lawful contract.

Power to examine both plaintiff and defendant in suit, and to award compensation to successful defendant.

4. The Court trying any suit instituted under the provisions of Regulation VI. 1823[c] of the Bengal Code, or under the provisions of this Act, shall be authorized to examine both the plaintiff and the defendant whenever the Court shall deem such examination necessary to the ends of justice; and if the award be in favour of the defendant, to assign to the defendant a sum which may be a compensation to him for the expense and loss of time occasioned by the proceeding.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

[b] See *supra*, p. 210.

[c] See *supra*, p. 207.

ACT No. XXI of 1836.[a]

Passed on the 19th of September 1836.

Power to create new, and alter limits of existing, zilas.

It shall be lawful for the Governor General in Council, by an Order in Council, to create new zilas in any part of the Presidency of Fort William in Bengal, and to alter the limits of existing zilas.

ACT No. VI of 1837.

Passed on the 1st of May 1837.

Liability of málguzárs for jama fixed by settlement.

1. Every málguzár in the Province of Katak and every body of málguzárs in the said Province having, as such body, joint engagements with the Government, and being persons acknowledged as the proprietors or possessors of a permanent interest in the mahál for which they have engaged, shall be answerable for the jama fixed by the terms of the settlement now existing for every mahál of such málguzár or body of málguzárs, until a new settlement of such mahál shall be completed and confirmed, according to the provisions of Regulation VII of 1822[b] and Regulation IX of 1833[c] of the Bengal Code.

ACT No. XXVII of 1839.

Passed on the 16th of December 1839.

An Act for authorizing the Court of Requests for the town of Calcutta to execute decrees passed by the Judge of the Díwání Adálat of the zila of the 24-Parganas in certain cases.

Preamble.

1. Whereas execution of the decrees of the Courts of Justice of the zila of the 24-Parganas is often defeated by the parties against whom the same have been obtained absconding from the limits of the said zila into the town of Calcutta; and whereas, by Regulation XVI of 1812[d] of the Bengal Code, provision is made, where the like inconvenience occurs by parties absconding from the town of Calcutta into the said zila, for the Judge of the said zila enforcing the judgments of the Court of Requests of the town of Calcutta:

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

[b] See *supra*, p. 178. [c] See *supra*, p. 270. [d] Repealed by Act No. VIII of 1868.

Execution by Court of Requests, Calcutta, of decrees of Courts of 24-Parganas.

It is hereby enacted that, if the defendant in any suit decided by any Court of Justice of the zila of the 24-Parganas the plaintiff in which shall have obtained a decree shall retire before execution of the same into the jurisdiction of the Court of Requests, that Court, upon receiving a written application from the Judge of Díwání Adálat of the zila of the 24-Parganas, setting forth the above circumstances, and accompanied by a copy of the decree duly authenticated, is hereby authorized and directed to proceed to execute the said decree in the mode prescribed for the execution of judgments obtained in the Court of Requests, and on payment of the like costs as are demanded for the execution of such judgments in ordinary cases;

provided always, that nothing in this Act contained shall be held to authorize the said Court of Requests to execute any decree, except the cause of action in respect of which such decree was obtained were such that, if it had occurred within the local jurisdiction of the said Court, it would have been cognizable by the same.

ACT No. XII of 1841.

Passed on the 19th of July 1841.

An Act for amending the Bengal Code in regard to sales of land for arrears of revenue.[a]

1.—[*Repealed by Act No. XIV of 1870.*]

Interest and penalty abolished.

2. There shall be no demand of interest or penalty upon any arrear of land-revenue.

ACT No. IX of 1847.

Passed on the 8th of May 1847.

An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihár and Orissa.[b]

Repeal of enactments.

1. It is hereby enacted that such parts of the Regulations of the Bengal Code as establish tribunals and prescribe rules of procedure for investigations

[a, b] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

regarding the liability to assessment of lands gained from the sea or from rivers by alluvion or dereliction, or regarding the right of Government to the ownership thereof, shall, from the date of the passing of this Act, cease to have effect within the Provinces of Bengal, Bihár and Orissa; and that all such investigations pending before the Collectors and Deputy Collectors in the said Provinces at the said date shall forthwith be discontinued; and that no measures shall hereafter be taken for the assessment of such lands, or for the assertion of the right of Government to the ownership thereof, except under the provisions of this Act.

Investigations as to alluvial lands.

2. The expression "Province of Orissa" in this Act shall be taken to mean only so much of the Province of Orissa as is subject to the Government of Bengal.

"Province of Orissa" defined.

3. Within the said Provinces it shall be lawful for the Government of Bengal in all districts or parts of districts of which a revenue-survey may have been or may hereafter be completed and approved by Government, to direct from time to time, whenever ten years from the approval of any such survey shall have expired, a new survey of lands on the banks of rivers and on the shores of the sea, in order to ascertain the changes that may have taken place since the date of the last previous survey, and to cause new maps to be made according to such new survey.

Power to direct new survey of riparian lands.

4. The approval of the revenue-surveys of districts or parts of districts which may be hereafter surveyed, shall be deemed to have taken place on such day as may be specified as the day of such approval in the Calcutta Government Gazette.

Date of approval of surveys.

5. Whenever on inspection of any such new map it shall appear to the local Revenue-authorities that land has been washed away from or lost to any estate paying revenue directly to Government, they shall without loss of time make a deduction from the sadr jama of the said estate equal to so much of the whole sadr jama of the estate as bears to the whole the same proportion as the mufassal jama of the land lost bears to the mufassal jama of the whole estate; but if the mufassal jama of the whole estate or of the land lost cannot be ascertained to the satisfaction of the local-revenue-authorities, then the said local Revenue-authorities shall make a deduction from the sadr jama of the estate equal to so much of the whole sadr jama of the estate as bears to the whole the same proportion as the land lost bears to the whole estate. And this deduction, with the reasons thereof, shall be forthwith reported by the local Revenue-authorities for the information and orders of the Sadr Board of Revenue, whose orders thereupon shall be final.

Deduction from jama of estates from which lands have been washed away.

6. Whenever on inspection of any such new map it shall appear to the local Revenue-authorities that land has been added to any estate paying revenue

Assessment of increments to

revenue paying estates.

directly to Government, they shall without delay assess the same with a revenue payable to Government according to the rules in force for assessing alluvial increments, and shall report their proceedings forthwith to the Sadr Board of Revenue, whose orders thereupon shall be final.

7.—[*Repealed by Bengal Act No. IV of 1868.*]

8.—[*Repealed by Act No. XIV of 1870.*]

Indemnity-clause.

9. Except as regards the proprietary right to islands, no suit or action in any Court of Justice shall lie against the Government or any of its officers on account of anything done in good faith in the exercise of the powers conferred by this Act.

ACT No. XX of 1848.

Passed on the 23rd of September 1848.

An Act for better enforcing the attendance of proprietors and farmers of land before Collectors of Land-revenue in the Lower Provinces of the Bengal Presidency.[a]

Preamble.

WHEREAS, by sundry Regulations of the Bengal Code, provision is made for the imposition of a daily fine by the Board of Revenue or other Authority exercising the powers of that Board on any proprietor or farmer of land subject to the provisions contained in the said several Regulations, who, when duly summoned by the Collector or other officer exercising the powers of Collector, shall omit or refuse to attend, or to cause his officer or agent to attend, or to furnish the accounts or documents required, and shall not show sufficient cause for such omission; and it is further provided that the fine, when confirmed by Government, is to be levied by the same process as is prescribed for the recovery of arrears of revenue; and whereas in many cases, by the delay thus occasioned, the whole burden of the penalty is greatly increased beyond what would be necessary if summary power were given to the officer by whom the requisition is made to impose and levy reasonable fines, subject to review by the Commissioner of Revenue and other superior Authority; It is enacted as follows:

Penalty on landholders not attending when summoned by Collector.

1. If any proprietor or farmer of land shall omit or refuse to attend, or to cause his officer or agent to attend, when duly summoned by the Collector, in any case specified in any of the said Regulations, by the time prescribed in the

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

notice issued by the Collector, or shall omit or refuse to furnish the accounts or documents required, and shall not show sufficient cause for such omission, the Collector may impose of his own authority such daily fine, to be payable daily until compliance with the requisition, as he may think adequate to the situation and circumstances in life of the defaulter, not exceeding in any case the daily fine of fifty rupees: and the amount of such fine, accruing due from time to time, may be levied without further confirmation by the same process as is prescribed for the recovery of arrears of revenue. Levy of fine.

2. The Collector shall forthwith report the imposition of every such fine, and the amount thereof, and also from time to time the amount levied, to the Commissioner of Revenue, who shall report the same for the information of the Local Government. Report of imposition and levy of fine.

3. Every order passed by a Collector under this Act shall be appealable in the usual manner to the Commissioner of Revenue and other superior Authority; but no such appeal shall avail to prevent the levy of any fine so imposed pending the appeal. Appeal from Collector's orders.

4. Whenever the amount levied under any such order, issued for any default by authority of a Collector under this Act, shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of Revenue; and no further levy for such default shall be made otherwise than by authority of the Commissioner of Revenue. Special report of levy exceeding 500 rupees.

5. Nothing in this Act contained shall be deemed to repeal the power of imposing daily fines and of levying the fines so imposed in the manner prescribed by the said several Regulations. Saving of power to fine.

6. The word "Collector" used in this Act shall be taken to mean any person lawfully exercising the powers of a Collector. "Collector" defined.

7. This Act shall not extend to the North-West Provinces of the Presidency of Bengal. Extent of Act.

ACT No. XX of 1850.

Passed on the 11th of April 1850.

An Act for settling the boundaries of the tributary mahâls in Katak.

WHEREAS certain jangal or hill zamíndárís in the zila of Katak, enumerated in section 36 of Regulation XII. 1805[a] of the Bengal Code, and the ter- Preamble.

[a] See *supra*, p. 75.

ritory of Mayurbhanj in the same zila were temporarily exempted by the said Regulation from the Regulations relating to the settlement and collection of the public revenue, and by Regulation XIII. 1805 [a] of the Bengal Code were temporarily exempted from the laws and Regulations for the maintenance of the Police and for the administration of justice in criminal cases; and whereas doubts have been entertained how disputes as to the boundaries of the said zamíndárís are to be determined; It is enacted as follows:

Trial of certain boundary-disputes.

1. Every case in which the boundaries between any of the said zamíndárís or the Qil'as of Baud and Áthmallik, and an estate subject to the Regulations of the Bengal Code, shall be in dispute, shall be heard, tried and determined in the first instance by the Superintendent of the Tributary Mahálś in zila Katak, according to such instructions as he shall from time to time receive from the Governor of Bengal, and his award, when confirmed by the Governor of Bengal, shall be final and conclusive, and shall be carried into execution by the Superintendent of Tributary Mahálś by giving possession of the land in dispute to the parties entitled under his award.

ACT No. XXIII of 1850.

Passed on the 8th of June 1850.

An Act for securing the Land-revenue of Calcutta.

Preamble.

WHEREAS it is expedient that the land-revenue accruing due to the East India Company within Calcutta be ascertained and collected in as summary a manner as in other parts of the territories under the government of the East India Company; It is declared and enacted as follows:—

Assessment of unassessed lands.

1. All assessable lands, not the property of the East India Company, within the town of Calcutta, of which the rate of assessment is not known, or which have not heretofore been assessed, shall be assessed at the rate of three annas for each kaṭṭhá.

Lákhiráj tenures.

2. Lákhiráj tenures of land in Calcutta, of which uninterrupted possession has been held exempt from assessment for sixty years, shall be valid: no other lákhiráj tenures of land in Calcutta shall be deemed valid, unless the same are or shall be held under an unexpired grant from the British Government.

Levy, by distress and sale, of unpaid assessments.

3. If any owner of land within Calcutta, or any person holding land within Calcutta on lease from the East India Company, shall, upon the written

[a] See *supra*, p. 90.

demand of the Collector, refuse or neglect to pay any sum at which the land is assessed, or for which he is liable under his lease, the Collector may levy the same by distress and sale of the goods and chattels, wherever found, of such owner or lessee, or, after written demand upon the tenant or occupier, and his refusal or neglect to pay the sum lawfully demanded, by distress and sale of any goods and chattels found upon the land, in the manner appointed for regulating distress for small rents in Calcutta by Act I of 1875[a]: and, for the purpose of any such distress and sale, the Collector shall have all the powers of a Commissioner of the Court for Recovery of Small Debts referred to in the said Act; and the Collector shall have power to appoint any of his officers to perform the duties of bailiffs and appraisers, and of the chief clerk of the said Court, as provided by the said Act; and all the provisions of the said Act relating to the said Commissioners and their Court shall be deemed to apply to the said Collector and his office in the execution of this Act.

Powers of Collector for distress and sale.

4. In the case of payment by any tenant or occupier not holding immediately under the East India Company, or the seizure and sale of his property, he may deduct the amount of the payment or levy from the next payment of rent to his landlord.

Deduction by occupier from landlord's rent.

5. The claim of the East India Company for land-revenue or rent has priority over all other claims upon the land, or to which property distrained upon the land may be liable.

Priority of Government claim.

6. If the Collector's claim for arrears of rent is disputed, the process of distraint and sale shall not be stayed, unless the amount claimed be lodged with the Collector.

Distress not stayed unless amount lodged.

7. Arrears of rent or revenue which shall become due to the East India Company within the town of Calcutta after the passing of this Act, shall be recoverable at any time within six years next after the same are due, or next after an acknowledgment of the same in writing has been given by the person by whom the same is payable or his agent, and not afterwards.

Recovery of arrears.

8. When a claim to hold land lákhiráj or free of assessment shall be set up under this Act, the Collector shall inquire into the claim, taking such evidence as the claimant may offer or the public records supply, and shall report his proceedings and decision in the case for the consideration of the Revenue Commissioner. If the Commissioner is satisfied of the validity of the claim, he shall make an order accordingly, and such order shall be final. If he is not satisfied of the validity of the claim, he shall direct the Collector to assess the land, leaving the claimant to contest the Collector's demand in the civil Courts as herein provided.

Inquiry into claims to hold land lákhiráj.

[a] See Act No. I of 1875, section 2, clause 3.

Penalty for obstructing Collector.

9. Any person obstructing or molesting the Collector or any of his subordinate officers in the execution of their duty, shall, on conviction before a Magistrate of the town of Calcutta, be liable to a fine not exceeding five hundred rupees, and, in default of payment, to imprisonment in the common jail for a term not exceeding six months, or until the fine is sooner paid.

Power to punish contempts.

10. The Collector may punish any contempt committed in his presence in open kachahrí or office, by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the common jail for a term not exceeding one month: from every such order, or fine or imprisonment, an appeal shall lie to the Commissioner, whose decision shall be final.

Control of Collector.

11. The Collector shall act in the execution of this Act under the usual control of the superior Revenue-authorities.

Bar of jurisdiction of Supreme Court.

12. The ground-rents payable to the East India Company from lands in Calcutta are revenue within the meaning of the Act of Parliament 21 Geo. III, c. 70, and the Supreme Court of Judicature established by Royal Charter at Fort William in Bengal has not any civil jurisdiction concerning the said ground-rents, or concerning any thing ordered or done in the assessment or collection thereof.

Jurisdiction of Courts of Twenty-four Parganas.

13. All actions concerning any trespass or injury committed by any Revenue-officer acting under colour of this Act, or concerning any claim in respect of any goods taken by, or any monies paid to, any Revenue-officer under this Act, or concerning any claim of rent or revenue on the part of the East India Company under this Act, shall be tried and determined in the civil Courts established by the East India Company at the sadr station of the Twenty-four Parganas, notwithstanding that the cause of action in respect of which such action is brought arose, or the defendant therein reside within the limits of the town of Calcutta: and every such action shall be brought within six months after the cause of action arose, and not afterwards.

Limitation.

"Collector," "Commissioner."

14. The words 'Collector' and 'Commissioner' used in this Act shall be taken to mean any person lawfully appointed to exercise the powers of Collector and Commissioner respectively.

ACT No. XXV of 1850.

Passed on the 14th of June 1850.

An Act for the forfeiture to Government of deposits made on incomplete sales of land under Regulation VIII. 1819, and Act IV. 1846.[a]

Preamble.

WHEREAS patnídárs *and judgment-debtors* fraudulently avail themselves of the provision in section 9, Regulation VIII. 1819 [b] of the Bengal Code, and in section 5, Act IV. 1846 [c] that forfeited deposits at sales of land *in execution of decrees or* for arrears of rent shall be applied as if they were purchase-money; It is enacted as follows:—

1.—[*Repealed by Act No. XII of 1873.*]

Application of forfeited deposits.

2. Any such forfeited deposit shall be applied to defray the expenses of the sale, and the surplus shall be forfeited to Government.

ACT No. XXXIII of 1850.

Passed on the 23rd of August 1850.

An Act for amending the forms necessary for the sale of patní-tenures in Bengal.

Preamble.

WHEREAS by clause 2, section 8, Regulation VIII. 1819 [d] of the Bengal Code, it is provided that zamíndárs shall be entitled in certain cases to apply for the sale of patní-tenures on which the right of sale for an arrear of rent is reserved, by presenting a petition to the civil Court of the district, and a similar one to the Collector; and whereas the petition to the civil Court has not been presented previous to many of such sales, and it is not necessary for protection of the patnídár; It is enacted as follows:—

Petition to Collector only sufficient.

1. It shall not be necessary for the zamíndár in any such case to present a petition to the civil Court, but a petition to the Collector shall be sufficient.

[a] Repealed, so far as it relates to forfeited deposits of sales of land or any interest in land in execution of decrees, by Act No. X of 1861.

[b, d] See *supra*, p. 158.

[c] Repealed by Act No. XII of 1873.

ACT No. XLIV of 1850.

Passed on the 27th of December 1850.

An Act for consolidating the Board of Customs, Salt and Opium, and the Sadr Board of Revenue in the Lower Provinces of Bengal.[a]

Preamble.

WHEREAS, by Regulation IV. 1819 [b] of the Bengal Code, a Board of Revenue in the Customs, Salt and Opium Department was constituted in the Province of Bengal, with all the duties, powers and authorities of the Board of Revenue with respect to customs and town-duties, and with the powers theretofore possessed by the Board of Trade in the Salt and Opium Departments; and whereas it is not now necessary that this Board should be continued separate from the Board of Revenue in the Lower Provinces of Bengal; It is enacted as follows:—

1.—[*Repealed by Act No. XII of 1870.*]

Powers of Board of Customs, Salt and Opium transferred to Sadr Board.

2. All powers and duties now vested in, or belonging to, the Board of Revenue in the Customs, Salt and Opium Department and its officers respectively, shall be transferred to the Sadr Board of Revenue constituted in the said Lower Provinces according to Regulation I. 1829 [c] of the Bengal Code, and its officers respectively: and all Acts and Regulations now in force relating to the said Customs, Salt and Opium Board of Revenue or its officers, shall be understood henceforth as if the said Sadr Board of Revenue and its officers had been respectively mentioned therein instead of the said Board of Customs, Salt and Opium and its officers.

Style of Board.

3. The said Sadr Board of Revenue shall be henceforth styled the Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

[b] Repealed by this Act.

[c] See *supra*, p. 261.

ACT No. VI OF 1853.

Passed on the 15th of April 1853.

An Act relating to summary suits for arrears of rent, to sales of patní-taluqs and other saleable tenures, and to sales of land in satisfaction of summary decrees for rent.

Preamble.

WHEREAS, by Regulation VIII. 1831[a] of the Bengal Code the hearing and decision of summary suits or claims relating to arrears or exactions of rents were transferred from the Judges of the zila or city Courts to the Collectors of land-revenue of the several districts;

and whereas by Regulation VII. 1832[b] of the Bengal Code the conduct of sales of patní-taluqs and other saleable tenures under Regulations VIII. 1819[c] and I. 1820[d] of the same Code, and the performance of other acts preparatory to, or connected with, such sales, were transferred to the Collector or Deputy Collector of land-revenue or head assistant to the Collector or Deputy Collector, subject to an appeal as therein provided;

and whereas by Act VIII. 1835[e] the power theretofore vested in the Judges of the Díwání Adálat of selling land in satisfaction of summary decrees for rent was transferred to the Collectors of land-revenue, and it was enacted that all sales for the recovery of arrears of rent held under clause 7, section 15, Regulation VII. 1799[f] should be conducted by the Collector, his Deputy or duly authorized Assistant, and that ten days' notice should be given of such sales by advertisement to be stuck up at the kachahrí of the zila Court or local Adálat and that of the Collector;

and whereas it is expedient that Act XXV. 1850,[g] and section 9, Regulation VIII. 1819[h] of the Bengal Code, as modified by clause 1, section 16, Regulation VII. 1832[i] of the same Code, and as altered by the said Act XXV. 1850, should be extended to sales under Act VIII. 1835;[j]

and whereas doubts may be entertained as to who ought to exercise the jurisdiction transferred by the abovementioned Regulations and Acts, where lands situate within the zila or other district of one Collector form part of an entire estate paying revenue to the Collector of another zila or district:

In order therefore to avoid such doubts, and also to define who are the proper officers to exercise such jurisdictions in cases where lands are situate in

[a] Repealed by Act No. X of 1859.

[b, i] Repealed by Act No. VI of 1871.

[c, h] See *supra*, p. 158.

[d] See *supra*, p. 172.

[e, f, j] Repealed by Act No. XVI of 1874.

[g] See *supra*, p. 285.

a district assigned to an independent Deputy Collector, and also in cases where lands held in patní or other tenure at one entire rent are situate in two or more collectorates, and to prevent any such decision or sale already made from being held invalid upon the ground of its having been made by an officer of a wrong district; It is enacted as follows:—

Conduct of sale of lands when all in one collectorate.

1. If the lands which may be the subject of any such sale, or to the rent of which any such suit may relate, be all situate in one collectorate, the Collector of such collectorate is the Collector to conduct the sale or to hear and decide the suit.

When in two or more collectorates.

If one taluq or tenure shall comprise lands situate in two or more collectorates, or if any lands situate in two or more collectorates be held under one lease or engagement or at one entire rent, the Collector in whose collectorate the greater part of such lands shall be situate is the Collector to conduct the sale of such taluq or tenure or of such lands, and to hear and decide any summary suit relating to arrears or exactions of rent in respect thereof.

Procedure in case of doubt as to officer having jurisdiction.

2. If a Collector to whom application shall be made to exercise any of the powers abovementioned shall entertain any doubt as to whether the lands or the greater part of them are situate within his collectorate, he shall report the case for the order of the Board to which he is subordinate, and if ordered by such Board to proceed in the matter, such order shall be conclusive upon the question of his jurisdiction.

"Collectorate" defined.

3. The word "Collectorate" in this Act means the zila or other district to which a Collector is appointed, and no lands situate beyond the limits of such zila or district shall be deemed to be situate within the collectorate, by reason of their forming part of an estate paying revenue to the Collector thereof.

Powers and jurisdiction of independent Deputy Collector.

4. An independent Deputy Collector may, within his deputy collectorate, exercise all the powers and jurisdictions of a Collector with which he may be entrusted, in the same manner and to the same extent as a Collector may do within his collectorate; and with reference to the exercise of such powers and jurisdictions, his deputy collectorate shall be deemed a collectorate, and he shall be deemed to be a Collector within the meaning of this Act.

"Independent Deputy Collector."

5. An independent Deputy Collector is an officer appointed by Government to act as Deputy Collector independently of a Collector, whether his office is one for the receipt of revenue or not.

"Deputy collectorate."

A deputy collectorate is the district within which an independent Deputy Collector is directed by Government to act.

Publication of notice of sale by independent Deputy Collector.

6. In cases of sales by an independent Deputy Collector under the abovementioned Regulations or Act, any notice thereby required to be stuck up at the kachahrí of the Collector, may be stuck up at the kachahrí of the Deputy Collector.

7. An independent Deputy Collector may exercise the powers assigned to him over any part of his deputy collectorate in public kachahrí, in whatever part of his deputy collectorate the same may be situate or held. Exercise of powers of independent Deputy Collector.

8. Any notice required by the abovementioned Regulations or Act to be given by advertisement to be stuck up at the kachahrí of the zila Court or local Adálat, shall be stuck up at the zila Court or local Adálat within the jurisdiction of which the lands to be sold, or the greater portion of them, as the case may be, shall be situate. Publication of notice required by law to be advertised.

ACT No. XIX of 1853.

Passed on the 2nd of December 1853.

An Act to amend the law of evidence in the Civil Courts of the East India Company in the Bengal Presidency.

26.[a] Any person, whether a party to the suit or not, to whom a summons to attend and give evidence or produce a document shall be personally delivered, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded or kept out of the way to avoid being served with such summons, and any person who, being in Court and upon being required by the Court to give evidence or produce a document in his possession shall, without lawful excuse, refuse to give evidence or sign his deposition, or to produce a document in his possession, shall, *in addition to any proceedings under this Act,* be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence or produce the document, for all damages which he may sustain in consequence of such neglect or refusal, or of such absconding or keeping out of the way as aforesaid, to be recovered in civil action. Person absconding, &c., to avoid service of summons, &c., liable for damages.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

ACT No. XX of 1854.

Received the Governor General's assent on the 26th of August 1854.

An Act to amend Regulation XIII of 1833 of the Bengal Code.

Preamble.

WHEREAS it is expedient to amend the provisions of Regulation XIII of 1833 [a] of the Bengal Code; It is enacted as follows:—

Repeal in part of Regulation XIII of 1833.

1. So much of the said Regulation as prescribes that the officer in whom the duties specified in section 4 of the said Regulation shall be vested, shall be denominated "Agent to the Governor General," is repealed.

Officer appointed by Local Government may exercise all powers by Regulation vested in Agent to Governor General.

2. Such duties shall be vested in any officer whom the Local Government shall, from time to time, appoint for that purpose, and such officer, when appointed, and his assistants respectively, may exercise, within the tracts of country separated as prescribed in the said Regulation, all the powers which, by the said Regulation, the Agent to the Governor General and his assistants respectively may exercise; and all the provisions in the said Regulation relating to the Agent to the Governor General and his assistants, shall be applicable to the officer to be appointed as aforesaid and his assistants respectively.

ACT No. XXXII of 1855.

Received the Governor General's assent on the 30th of November 1855.

An Act relating to Embankments.[b]

Preamble.

WHEREAS the Regulations now in force for the maintenance of embankments in the territories under the government of the Lieutenant-Governor of Bengal have been found ineffectual for the intended purposes thereof; and

[a] Repealed by Act No. XII of 1876. Sections 3 and 4 of Regulation XIII of 1833 are as follows:—

3. The under-mentioned tracts of country at present included in the districts of Rámgarh, Jangal Maháls and Mednípur, shall be separated from those districts, and the operation of the rules for the administration of civil and criminal justice, as well as those for the collection of the land-revenue, customs, ábkárí and stamp-revenue, together with all other rules contained in the Regulations printed and published in the manner prescribed by Regulation XLI. 1793, is suspended, and shall cease to have effect therein from the date specified in the preamble of this Regulation, except as hereinafter provided:—

In the district of Rámgarh,—Chutiá Nágpur, Palámu, Kharagdihá Rámgarh, Kundá.

In the district of Jangal Maháls,—all the maháls at present comprised in this district, except the following:—Sáinpahárí, Shergarh, Bishanpur.

In the district of Mednípur,—Dhálbhúm, including Ghátsilá.

4. The administration of civil and criminal justice, the collection of revenue, the superintendence of the police, of the land-revenue, customs, ábkárí, stamps and every branch of government within the tracts of country separated as prescribed in the foregoing section, shall be vested in an officer appointed by the Governor General in Council, to be denominated Agent to the Governor General.

[b] Repealed, except so far as relates to Orissa and the Sundarbans, by Bengal Act No. VI of 1873.

whereas it is desirable that provision should be made for the better supervision and protection of the same; It is enacted as follows:—

1.—[*Repealed by Act No. XIV of 1870.*]

"Embankment" defined.

2. The word "embankment" in this Act means an embankment for the purpose of excluding or retaining water; and every embankment which is now kept up, or may hereafter be kept up, by the officers of Government, at the expense either of Government or of any private person, is a public embankment within the meaning hereof.

Superintendent of embankments.

3. The superintendence of the public embankments shall be entrusted, subject to the general orders of Government, to an officer who shall be called the Superintendent of Embankments.

Charge of embankment connecting public embankments, &c.

4. *Clause 1.*—The Superintendent of Embankments may cause any embankment which connects public embankments, or forms by junction with them part of a line of embankments, or is necessary for the protection of the neighbouring country, to be taken charge of and kept up by the officers of Government.

Removing private embankment endangering public one.

Clause 2.—He may also cause any private embankment, which endangers the stability of a public embankment, or obstructs the beneficial drainage of the country, to be removed.

Changing line of embankment or making new one.

Clause 3.—He may also, when necessary, change the line of any public embankment, or make a new embankment.

Enlarging embankment, &c.

Clause 4.—He may also enlarge any public embankment, and do all acts necessary and proper for the maintenance thereof.

Notice to Collector before taking charge, &c.

5. *Clause 1.*—Before the Superintendent shall cause any of the works mentioned in the first three clauses of the next preceding section to be executed, he shall give notice in writing to the Collector of the district of his intention so to do.

Issue of proclamation.

Upon the receipt of such notice, the Collector shall cause a proclamation to be issued, incorporating the substance of the notice, and calling upon all persons interested, who may be desirous of showing cause against the execution of such works, to appear before him on a certain day to be named therein.

Publication of proclamation.

Clause 2.—The proclamation shall be published by affixing the same in the kachahrí of the Collector, the mál kachahrí (if any) of the estate on which the works are intended to be executed, and on some conspicuous spot in the neighbourhood thereof.

The proclamation shall be published not less than fifteen days before the day appointed for hearing the parties interested.

Procedure on appearance of parties.

Clause 3.—The Collector shall hear the objections of any parties who may appear, and, after recording any evidence which they may adduce, shall com-

municate the objections that may be made, together with his opinion thereon, to the Superintendent of Embankments.

If the Superintendent agree in opinion with the Collector, he shall pass an order accordingly.

If he differ from the Collector, the case shall be referred to the Commissioner of Revenue, who shall pass such orders thereon as he may deem fit.

Appeal from orders of Superintendent and Commissioner.

Clause 4.—Every such order passed by the Superintendent shall be appealable to the Commissioner of Revenue, and every order of the Commissioner shall be appealable to the Board of Revenue; but no appeal shall lie against any order passed under this section, unless the same be presented within one month from the date of the order.

Orders not open to revision by civil Court.

Clause 5.—Subject to the right of appeal above-mentioned and to the orders and control of Government, every order passed under this section shall be final and shall not be open to revision by any civil Court, and shall be conclusive as to the necessity of any works ordered to be executed.

Charging cost of maintaining private embankments in charge of Government officers. Proviso.

6. Whenever the Superintendent of Embankments shall hereafter cause an embankment which any person is bound to keep up to be taken charge of by the officers of Government, the expense of keeping up such embankment shall be charged to such person.

Provided that the amount so charged shall not exceed the reasonable expense of keeping up an embankment of the size and description which such person was bound to keep up, notwithstanding the embankment shall have been enlarged or improved by the officers of Government.

Compensation for damages.

7. *Clause* 1.—When the Superintendent of Embankments shall enlarge or change the line of any embankment, or make a new embankment, or cause an embankment to be removed, any person sustaining damages thereby, who, but for the passing of this Act, would be entitled to compensation, may prefer his claim for such compensation to the Collector of the district, at any time within twelve months after the execution of the work by which he is endamaged, and the Collector thereupon shall report the case for the orders of the superior Revenue-authorities.[a]

If the claim be rejected, the claimant shall not be deprived, by reason of this Act, of any right which he might otherwise have had to recover such compensation by a civil action; but such action shall not lie, unless the claimant shall have first preferred his claim to the Collector within the period above-mentioned, nor unless the suit be brought within a period of one year after notice to the claimant of its rejection.

If the claim for compensation be admitted by the Revenue-authorities, and

[a] See Bengal Act No. VII of 1866, section 1, *infra*.

the amount of compensation cannot be agreed upon, the same shall be settled by arbitration, in the manner hereinafter provided, and in no other manner, unless by the consent of the claimant and of the superior Revenue-authorities.

Appointment of arbitrators.

Clause 2.—Unless the Collector and the claimant concur in the appointment of a single arbitrator, the Collector on the part of Government, and the claimant, shall each appoint an arbitrator.

The appointment shall be in writing, and neither of the said parties shall have power to revoke the same without the consent of the other.

Arbitrator how chosen when there are several claimants for compensation.

Clause 3.—If there be several claimants for compensation in respect to the same injury, and they cannot agree in the appointment of an arbitrator on their behalf, in that case each of them may nominate one person; and the Collector shall choose by lot out of the persons so nominated by the parties or any of them, a person to act as arbitrator on behalf of the claimants.

If only one person shall be so nominated, he shall be the arbitrator on behalf of the claimants.

Appointment of third arbitrator.

Clause 4.—When more than a single arbitrator shall be appointed, the arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing a third person to act with them as arbitrator; and in case the arbitrators shall neglect to appoint such third arbitrator for a period of seven days after having been required so to do, the Collector may appoint such third arbitrator.

If the arbitrators differ in opinion, or if one of them, having received due notice of a meeting of arbitrators, neglect to attend, any two arbitrators may make an award.

Appointment in place of arbitrator not acting.

Clause 5.—If any person on being appointed an arbitrator shall refuse to act, or after accepting the appointment shall die or become incapable of acting, another person shall be appointed in his stead, in the same manner in which the first person was appointed.

Collector empowered to enforce attendance of arbitrators.

Clause 6.—After the arbitrators have accepted the appointment, the Collector shall be competent to exercise towards them such powers and authority, for securing their attendance and the due completion of their award, as the said Collector may legally exercise towards witnesses summoned before him when acting judicially for the purposes of compelling them to attend and give evidence.

In default of award within specified period, fresh arbitrators may be chosen.

Clause 7.—If no award be made within a period to be fixed for that purpose by the Collector, he may order that the matter shall be referred to another arbitrator or other arbitrators, to be chosen in the same manner and subject to the same rules as the first.

Collector to furnish information to arbitrators.

Clause 8.—The Collector shall furnish to the arbitrators, or, so far as may be in his power, procure for them, any information which his records or those of any public department may afford connected with the subject of enquiry.

and to enforce attendance and examination of witnesses, &c.

He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings, maps and plans as they shall require.

He shall also cause the proper affirmation to be made and signed by any witness whom the arbitrators may desire to examine upon affirmation, or he may empower the arbitrators to cause such affirmation to be made and signed before them.

Penalty on witness not appearing.

Any witness who shall refuse or omit to appear when duly summoned by the Collector, or who shall appear but shall refuse to make such affirmation, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the law by a witness refusing to appear or give evidence before the Collector when acting judicially.

Penalty for false deposition.

Any person giving intentionally and deliberately a false deposition under an affirmation, in any case referred to arbitration as above, shall be held to be guilty of perjury, and shall be liable to the penalties prescribed for that offence by law.

Award of arbitrators.

Clause 9.—On the close of the enquiry, the arbitrators shall deliver a full and complete award, which shall specify the amount of compensation and the party or parties entitled thereto.

The proceedings of the arbitration shall be deposited in the Collector's office; and every party interested therein shall be entitled to a copy of the award on plain paper under the seal and signature of the Collector, which copy shall be *primâ facie* evidence thereof.

When payment of compensation may be deferred.

Clause 10.—If the right to the compensation awarded shall in any case be doubtful, or if there exist any ground which, in the judgment of the arbitrators or of the Collector, render it improper to make immediate payment thereof to any of the claimants, the amount shall be invested in Government securities, and held in deposit until one of the claimants shall obtain an order of Court for the payment thereof.

Reversal or alteration of award.

Clause 11.—No award passed under this section shall be liable to be reversed or altered, except by the decision of a civil Court on the ground of corruption or misconduct of the arbitrators, and no suit to set aside such an award shall be entertained, unless it be instituted within three months from the date of the award.

In case the award shall be so reversed, the matter shall be referred to another arbitrator or other arbitrators, to be appointed in the same manner as the first.

Dismissal of suits against Government.

Clause 12.—All suits and proceedings instituted against Government in any case in which compensation has been awarded, except suits instituted for the reversal of awards as aforesaid, shall be dismissed with costs.

But nothing herein contained shall affect the right of any party to recover the amount awarded from any person who may have received the same without any just title thereto. Proviso.

Clause 13.—In fixing the amount of compensation to which any person may be entitled by reason of any of the acts mentioned in clause 1 of this section, the Court or arbitrators, as the case may be, shall take into consideration whether any party to the suit or arbitration has derived or will derive benefit from the act in respect of which the compensation is claimed, and shall set-off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed or awarded to that party. Estimated value of benefit to be set-off against compensation awarded.

Clause 14.—The provisions of this section shall not be held applicable to cases in which the compensation to be made has reference only to huts, trees or crops which it may be necessary to remove or destroy in enlarging or changing the line of a public embankment. Exception of cases of compensation in respect to huts, trees or crops.

In all such cases the officer in charge of the public embankments of the district shall report to the Collector, and the Collector shall thereupon proceed to value and make compensation for such huts, trees and crops, in the manner prescribed in section 12 of this Act.

8. *Clause 1.*—If any landholder, farmer or cultivator be desirous of having a sluice made in any public embankment for the purpose of drainage or irrigation, he shall make an application in writing to the Collector of the district in which such embankment is situate.[a] Application by landholder to have sluice made in public embankment.

The application shall contain such particulars of the land to be drained or irrigated as may enable the officers of Government to judge of the advantage which may be derived from the work, and shall declare, as regards an embankment maintained at the expense of the State, whether the applicant is willing to bear such part, not exceeding half of the cost thereof, as may be determined by Government; and, as regards any other public embankment, whether the applicant is willing to defray the whole or such part of the cost incident to, and attendant on, the proposed work, as may be determined as aforesaid.

Clause 2.—The Collector shall transmit such application to the officer in charge of the embankments of the district, who shall report his opinion thereon to the Superintendent of Embankments, and, if he be of opinion that compliance with the application is unobjectionable, shall annex to his report a plan of the proposed work and an estimate of the expense of its construction. Officer in immediate charge to report on proposed work.

The Superintendent of Embankments shall pass such order thereon as he shall think fit, which order shall be final.

[a] See Bengal Act No. VII of 1866, section 6, *infra*.

Upon applicant engaging to defray cost, Collector may issue certificate.

Clause 3.—If the construction of the proposed sluice receive the approval of the Superintendent of Embankments, the Collector shall require the applicant to enter into a written agreement to defray the whole or half of the expense or such portion thereof as may be determined under the provisions of clause 1 of this section, as the case may be; and upon such agreement being executed, shall issue a certificate to the officer in charge of the public embankments of the district to construct the sluice.

Opening of sluices.

9. Sluices constructed in any public embankment shall be opened only by, or with the permission of, the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the officer in charge of the public embankments of the district or from the Superintendent of Embankments.

Officer in immediate charge may authorize temporary watercourse, &c., to be made.

10. Whenever any person is desirous that a temporary watercourse should be made through, or that a temporary roadway should be made over, any public embankment, or that a temporary dam should be constructed in any embanked river, he shall apply to the nearest officer of the Embankment Department, who shall communicate the application to the officer in charge of the public embankments of the district, and that officer shall pass such orders thereon as he shall think fit, subject to the control of the Superintendent of Embankments.

If the proposed work is to be executed by an officer of Government, the applicant, before the commencement of the work, shall enter into a written agreement to defray the expenses of, and incident to, making such roadway, or of making and closing or removing such watercourse or dam.

In any case of emergency the officer in immediate charge of an embankment, subject to such general instructions as he may receive from the officer in charge of the embankments of the district, or from the Superintendent of Embankments, may cause a temporary watercourse to be made through such embankment.

Annual specifications and estimates for maintaining or improving embankments kept up at expense of zamíndárs.

11. *Clause 1.*—Specifications of the work and estimates of the expense which may be required for the maintenance or improvement of embankments kept up at the expense of zamíndárs or others, shall be prepared as soon after the rains in each year as may be practicable.

Copies of the specifications and estimates shall be transmitted to the office of the Collector, and may be examined by any person interested in the embankments.

Notice of the receipt of the specifications and estimates shall be posted up in the Collector's office; and should any objection be preferred by any such person within a period of one month from the date of such notice, the Collector shall communicate the objection, with his own opinion thereupon,

to the Superintendent of Embankments, who shall pass such orders as may appear to him reasonable and proper.

Provided, however, that if the objection refer to the construction of sluices or other new works, any person dissatisfied with the order of the Superintendent may appeal to the Commissioner, who, subject to the orders of the Board of Revenue and of Government, may disallow the construction of the work.

Accounts to be forwarded to Collector, who may recover as arrears of Government revenue.

Clause 2.—The accounts of the actual expense incurred in maintaining or improving embankments kept up at the expense of zamíndárs or others, and in constructing and repairing sluices, and making temporary watercourses or roadways through or over any public embankment, or executing any other work the expense of which may be chargeable to individuals, shall be prepared as soon as possible after the completion of such works, and shall, as soon as such accounts shall have received the sanction of the Superintendent of Embankments, be forwarded to the office of the Collector, and may be there examined by any person interested.

Notice of the receipt of the accounts shall be posted up in the Collector's office; and if, within one month from the date of such notice, any interested person shall object to the accounts, on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than the estimate, the Collector shall enquire into such objection, and if the objection appear to be well founded, shall communicate the same, with his opinion thereon, to the Superintendent of Embankments.

If the Superintendent concur with the Collector, he shall pass orders accordingly; if he differ, the case shall be reported to the Commissioner, whose decision shall be final.

When the objection shall have been finally disposed of, or, if no objection be preferred, when a full month shall have elapsed from the date of notice, the Collector shall proceed to levy the amount from the parties liable to pay the same, by the process which is or may be in force for the recovery of arrears of Government revenue.

Superintendent to report to Collector as to removal of buildings, &c.

12. *Clause 1.*—Whenever the Superintendent of Embankments shall be of opinion that the removal of any houses, huts or other buildings, situated between a public embankment and the river, is necessary, he shall make a report to that effect, accompanied by a detailed statement of the houses, huts or other buildings to be removed, to the Collector of the district in whose jurisdiction the land on which such houses, huts or other buildings stand, is situated.

Collector to give notice to claimants.

Clause 2.—When such report is received, the Collector shall cause a notice, containing a general description of the houses, huts or other buildings proposed to be removed, to be affixed in some conspicuous place upon the land,

and to be published by proclamation in the nearest bázár, calling on all persons claiming a right in such houses, huts or other buildings to appear in person or by authorized agent at a place to be specified in the notice, on or before a given date, not being less than fifteen days from the date of such proclamation, in order to make known the amount and particulars of their claim to compensation to a jury to be appointed in the following manner.

Selection of jury.

Clause 3.—The Collector shall direct a Deputy Collector or a principal officer of his establishment to proceed to the spot, and there to select three respectable inhabitants of the neighbourhood, to form with himself a jury for determining the value of the houses, huts or buildings, and, if any dispute should arise, the rights of the claimants.

Proceedings of jury.

Clause 4.—The jury shall assess the value of each house, hut or building separately.

If in any case they differ, the value shall be assessed according to the opinion of the majority; and if they be equally divided, the Deputy Collector or other officer as aforesaid shall have a casting vote.

Award of jury.

Clause 5.—Having completed their proceedings, the jury shall make their award, which shall contain a schedule of the houses, huts and buildings, the amount of value assessed on each, and the name of the person or persons entitled to receive the same.

The award shall be final and conclusive and not open to question in the civil Court:

Provided always, that any person who was not present at the enquiry, or whose claim may have been set aside by the jury, may institute a suit for the value of the property claimed by him against the person to whom payment may have been made under the award.

After award, Collector to give notice of payment, and to remove buildings, &c., in thirty days.

13. The Collector, on receiving the award, shall cause a notice to be affixed in some conspicuous place upon the land, with a citation calling on the parties to appear before him or the Deputy Collector or other officer aforesaid, in person or by authorized agent, at a certain time and place, and receive the amount so awarded, and warning them to remove their houses, huts or other buildings within thirty days from the date of such notice.

When Collector may remove buildings, &c., at cost of owners.

14. If, on the expiration of the above-stated period, the houses, huts or other buildings shall have not been previously removed, the Collector shall cause the same to be removed or levelled; and if any expense be incurred in removing or levelling the same, the Collector may sell the materials at public auction in order to defray the charge, delivering any surplus that may remain to the owner.

Penalty for obstructing officer in discharge of duty.

15. Whoever wilfully obstructs any duly authorized person in removing or levelling any embankment, house, hut or other building, shall be liable to be imprisoned for any time not exceeding six months, with or without

labour, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding six months, or to both.

Penalty for wilful damage to embankment by cutting, &c.

16. Whoever wilfully, and without due authority, cuts through, or attempts to cut through, any embankment, whether public or private, or destroys or attempts to destroy any such embankment, or opens any sluice or watercourse in any such embankment, shall be liable, on conviction before a Magistrate, to be imprisoned for a term not exceeding one year, with or without labour, or to a fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding one year, or to both; or, if the Magistrate be of opinion that such punishment is insufficient for the offence, he may commit the offender to the Sessions Court, in which case he shall be liable, on conviction, to imprisonment for a period not exceeding seven years, with or without labour, or to fine, or to both.

Penalty for other wilful damage.

17. Whoever damages any public embankment by making any dam or other obstruction for the purpose of diverting or opposing the current of an embanked river without the permission of the officer in immediate charge of the embankments, or by refusing or neglecting to remove any such dam or obstruction at the proper season, or by cutting or otherwise altering the banks of any embanked river, or by removing the earth from such embankment, or by grazing or tethering any cattle or other animals on any such embankment, or by driving stakes into, or cutting or rooting out grass growing on, such embankment, or by any other wilful act destroys or diminishes the efficiency of such embankment, shall be liable, on conviction before a Magistrate, to simple imprisonment for a term not exceeding six months, or to a fine not exceeding two hundred rupees, or to both.

Jurisdiction of Deputy or Assistant Magistrate.

18. Any Deputy or Assistant Magistrate may take cognizance of offences under this Act, and may punish offenders to the extent of the power conferred upon him by the Regulations of the Bengal Code, and by the Acts of the Governor General of India in Council.

19.—[*Repealed by Act No. XVI of 1874.*]

Right of appeal.

20. All sentences and orders passed by a Magistrate, Deputy Magistrate or Assistant under this Act, shall be appealable, subject to the general provisions which regulate appeals.

Interpretation.

21. In the construction of this Act, words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular; words importing the masculine gender only shall include females; the word "Collector" shall mean any Collector, Deputy Collector or other Revenue-officer in independent charge of any district or portion of a district.

SCHEDULE.

Bhágalpur.

Pargana Bhágalpur ... (So much of it as is embraced within the Police-jurisdictions of Kahalgáon and Parsá.)
„ Bahádarpur.
„ Chituliyá.
„ Kahalgáon ... (So much of it as lies to the east of the Geruá Nálá and to the south of the River Ganges.)
„ Goddá.
„ Hándwá.
„ Jamuní.
„ Kánkjaul.
„ Pasai.
„ Sultánábád.
„ Tiliyágarhí.
„ Ambár.
„ Akbarnagar.
„ Hazártakkí.
„ Ináyatnagar.
„ Makráin.
„ Sultánganj.
„ Amolmotiyá.
Tappá Belpattá.
„ Manihárí.
The Dámin-i-Koh ... Including the Rájmahál Hills.

Bírbhúm.

Pargana Darin Mauleshwar (northern portion).
Tappá Kandit Karaiyá.
„ Muhammadábád.
Pargana Nauní.
„ Pabbiyá.
Tappá Sarath Deogarh.
Pargana Malárpur.
„ Haripur.
„ Hukmápur ... (So much of it as lies north of the River Mor.)

Such portions of Parganas appertaining to Purniyá, Máldah and Murshidábád, as lie on the right bank of the Ganges above the village of Daunápur, in the Bhágalpur Pargana of Kánkjaul.

ACT No. XII of 1856.

Received the Governor General's assent on the 9th of May 1856.

An Act to amend the law respecting the employment of Amíns by the civil Courts in the Presidency of Fort William.[a]

Preamble.

WHEREAS the law by which the civil Courts are authorized to employ amíns upon local investigations is defective, and requires amendment; and whereas, in consequence of the extended jurisdiction which has been given to Munsifs and the change which has been made in the constitution of the office, it is no longer expedient that Munsifs should be employed in the attachment and sale of personal property, nor, except on rare and special occasions, in any of the duties enumerated in sections 50, 51 and 53, Regulation XXIII. 1814[b]; and it is necessary to make provision for the performance of those duties by other agency; It is enacted as follows :—

1.—[*Repealed by Act No. XIV of 1870.*]

Appointment of amíns.

2. In each district, officers to be designated Civil Court amíns shall be appointed for the purposes of this Act, and shall be remunerated by fixed monthly salaries.

The number of amíns to be employed in each district, and the salaries to be allowed to them, shall be determined by the Local Government, with the sanction of the Governor General of India in Council.

Amíns by whom appointed and to what Courts attached.

3. The Civil Court amíns shall be appointed by the Judge of the district, and the Judge shall from time to time attach them to the several Courts of the district according as the state of business may require.

Provided that an amín attached to any particular Court may, with the sanction of the Judge, be employed occasionally by any other Court.

4.—[*Repealed by Act No. X of 1873.*]

Duties of amíns.

5. The Civil Court amíns may be employed in any of the following duties :—

i. in investigating or adjusting accounts in any suit or other judicial proceeding :

ii. in making local investigations when the Court may deem investigation on the spot to be requisite and proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of mesne profits or damages in any suit or other judicial proceeding :

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

[b] Repealed by Act No. XVI of 1868.

iii. in delivering over possession of lands, houses and other immoveable property in execution of decrees or orders of Court :

iv. in the sale of moveable property, and of houses, gardens and other immoveable property of the kind described in section 3, Regulation VII. 1825 [a] :

v. in ascertaining the sufficiency of sureties and the means of persons suing *in formâ pauperis*.

6, 7.—[*Repealed by Act No. X of 1861.*]

Expense of amíns how charged.

8. Whenever a Civil Court amín may be employed on any duty connected with a pending suit or the execution of a decree, except the sale of property, the Court shall estimate the time which the duty may be expected to occupy, and shall charge for the expense of the amín such fixed rate *per diem* as may be determined by the Sadr Court.

The amount shall be paid into Court by the party at whose instance or for whose benefit the amín is deputed, and shall be added to the costs of suit.

When employed to sell property, deduction from proceeds.

9. When a Civil Court amín shall be employed to sell property, a deduction at the rate of one anna in the rupee shall be made from the proceeds of the sale.

Expenses, if no sale takes place.

If no sale takes place by reason of the claim being satisfied, or for any other cause, a charge shall be made for the expenses of the amín according to the time he may be employed.

A deposit to meet this charge, calculated in the manner prescribed in the preceding section, shall be made before the amín is deputed, and shall be returned to the depositor if the sale takes place.

All sums paid for the employment of amíns, and all sums deducted from the proceeds of sales, shall be credited to Government.

Power of civil Courts, North-Western Provinces, to employ Revenue-officers.

10. Nothing contained in this Act shall be held to prohibit the civil Courts in the North-Western Provinces of the Presidency of Fort William from making use of the agency of the Revenue-officers in investigations and adjustments of accounts connected with land paying revenue to Government.

Powers of officers so employed.

Whenever a Tahsíldár, a Náib Tahsíldár or a Peshkár shall be employed in any such investigation or adjustment under the orders of a civil Court, he shall possess all the powers vested in Civil Court amíns by section 7 of this Act ; and the provisions of the said section shall be applicable to the proceedings held by such officer.

[a] Repealed by Act No. XVI of 1874.

ACT No. XVIII of 1856.

Received the Governor General's assent on the 23rd of August 1856.

An Act relating to the administration of the public revenues in the Town of Calcutta.

Preamble.

WHEREAS it is expedient that the Collector of Calcutta *should have charge of the collection of the stamp-duty within the town of Calcutta, and that he* should have power to employ any Deputy Collector subordinate to him, in the performance of any part of the duties of his office; It is enacted as follows [a]:—

Regulations modified.

1. Such part of section 6, Regulation XII. 1826[b] of the Bengal Code, and such part of section 6 of a Rule, Ordinance and Regulation for the town of Calcutta, made and passed on the 14th day of June, 1827, as prescribe that an officer being a civil servant of the Honourable Company shall be specially appointed by the Governor General in Council to take charge of the collection of the stamp-duty within the city of Calcutta, are declared subject to the following modification.

2.—[*Repealed by Act No. XVIII of 1869.*]

Collector may entrust any part of his duties to his Deputy.

3. It shall be lawful for the Collector of Calcutta to employ any Deputy Collector subordinate to him, in the performance of any part of the duties of his office under the said Regulation, or under Act XI of 1849,[c] or Act XXIII of 1850 [d]; and all Rules, Regulations and Acts relating to the office of Deputy Collector shall be of the same force within the town of Calcutta as in other parts of the territories subject to the Presidency of Fort William in Bengal.

ACT No. XX of 1856.

Received the Governor General's assent on the 14th of November 1856.

An Act to make better provision for the appointment and maintenance of Police chaukídárs in cities, towns, stations, suburbs and bázárs in the Presidency of Fort William in Bengal.[e]

Preamble.

WHEREAS it is expedient to make better provision for the appointment and maintenance of Police chaukídárs in cities, towns, stations, suburbs and

[a] So much of the preamble as relates to stamp-duty is repealed by Act No. XVIII of 1869.
[b] Repealed by Act No. XXXVI of 1860.
[c] Repealed by Bengal Act No. VII of 1878.
[d] See *supra*, p. 282.
[e] This Act is repealed by Bengal Act No. V of 1876, but is apparently still extendible to cantonments in the Lower Provinces. See Act No. XXII of 1864, section 14, which the local legislature cannot affect.

bázárs in the Presidency of Fort William in Bengal; It is enacted as follows:—

Existing assessment to be levied until revised.

1. The monthly assessment levied under Regulation XXII. 1816[a] and Act XV of 1837[b] in any city or station at the time of the passing of this Act, shall continue to be levied until the same shall be revised and altered under the provisions of this Act.

To what places Act shall apply.

2. The provisions of this Act shall have effect in the cities and stations in which the said Regulation XXII. 1816 has heretofore been in force, and in every other city, station, town, suburb and bázár in the said Presidency, to which the Local Government at any time may extend the same by notification in the official Gazette.

Proviso.

Provided always, that this Act shall not be extended to any city, town, suburb or bázár, unless there be therein (or in some other city, town, suburb or bázár with which the same may be united as hereinafter provided) a Police-station under an officer of a grade not below that of jamadár, nor to any agricultural village.

Unions may be formed.

3. The Government may, by notification to be published in the official Gazette, unite, for the purposes of this Act, any city, town, suburb, station or bázár, or any part or parts of a city, town, suburb, station or bázár, with any other city, town, suburb, station or bázár, or part or parts of a city, town, suburb, station or bázár; and in such case all the provisions of this Act applicable to a city, town, suburb, station or bázár shall apply to such union.

Government may define limits of cities, towns, &c.

4. For the purposes of this Act the Local Government may define and declare the limits of any city, town, suburb, station, bázár or union, and all occupiers of houses within any such city, town, suburb, station, bázár or union as aforesaid, or within such limits as shall be so defined as aforesaid, shall be liable to be assessed or rated according to the provisions of this Act, for the purpose of maintaining the chaukídárs appointed to be maintained in such city, town, station, suburb, bázár or union.

Houses let to lodgers how assessed.

5. If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall, for the purposes of this Act, be deemed to be the occupier of such house.

Penalty for removing, &c, name of street or number of house.

6. The Magistrate may cause a name to be given to any street and affixed in such place or places as he may think fit, and may also cause a number to be affixed to every house in any street or mahalla, for the purpose of identifying such house; and if any person shall wilfully remove, obliterate

[a, b] Repealed by this Act.

or destroy such name or number, he shall be liable, on conviction by a Magistrate, to a fine not exceeding twenty rupees.

Magistrate to determine number of chaukídárs. Proviso.

7. The Magistrate shall determine the number of chaukídárs to be maintained in any city, town or other such place as aforesaid; but the number of chaukídárs so to be maintained shall not exceed one to every twenty-five houses.

Grades and wages of chaukídárs.

8. The chaukídárs appointed under this Act may be of different grades, and the wages to be paid to the several grades shall be determined by the Magistrate.

Magistrate to determine sum to be raised annually.

9. The Magistrate shall determine the total amount required to be raised in any year in any city, town or other such place as aforesaid, for the purpose of maintaining the chaukídárs appointed to be maintained therein, and for the purposes specified in sections 33, 34, 35 and 36 of this Act, together with such sum as the Magistrate may consider necessary to provide against the contingency of losses from defaulters in the current year, and the amount of losses, if any, actually sustained from defaulters in the preceding year.

Nature of tax to be levied.

10. The tax to be levied in any city, town or other place as aforesaid, for the purposes of this Act, may be either an assessment according to the circumstances and the property to be protected, of the persons liable to the same, or a rate on houses and grounds according to the annual value thereof.

The Local Government, on the report of the Magistrate and Commissioner of Circuit, shall determine in each case whether the tax to be levied shall be such assessment or such rate.

Limitation of tax.

11. If the tax be an assessment according to the circumstances and the property to be protected of the persons liable to the same, the aggregate sum to be raised by such tax shall not exceed the average rate of two annas per mensem for each house, and the amount assessed in respect to any one house shall not be more than the pay of a chaukídár of the lowest grade. If the tax be a rate on houses and grounds, it shall not exceed five per centum of the annual value thereof.

Rate how to be ascertained.

12. For the purpose of making a rate under this Act, the annual value of the houses and grounds liable to the rate shall be computed and ascertained upon an estimate of the gross annual rent at which the same might reasonably be expected to let from year to year.

Grounds used for purposes of trade shall be liable to the rate, but grounds used for the purpose of cultivation or for depasturing cattle shall not be liable.

Magistrate may exempt occupiers unable to pay.

13. The Magistrate may, at his discretion, exempt from the assessment or rate, or may relieve from the payment of his assessment or rate, any occupier who may be unable from poverty to pay the same.

Constitution of panchâyats.

14. For the purposes hereinafter mentioned, the Magistrate shall constitute and appoint a panchâyat for each such city, town or other place as aforesaid, or, when he may see fit to divide any such city, town or place into convenient divisions, for each division thereof, and shall issue a sanad of appointment, specifying the names, residence, business or other description of the persons appointed and the period for which the appointment is made.

Every panchâyat shall consist of three or five respectable persons residing or carrying on business in or near to any such city, town or other place, or in or near to any such division thereof.

Magistrate may appoint non-resident person to be a member.

Provided that, instead of any one such person, the Magistrate may appoint any person whom he may think fit to be a member of the panchâyat, notwithstanding such person may not reside or carry on business in or near to such city, town or other place, or in or near to any such division thereof.

Duties of panchâyat.

15. The panchâyat so appointed, or the majority of them, shall, once in every year, if required so to do by the Magistrate, prepare and make, in accordance with the rules laid down in the requisition, an assessment or rate upon the several persons liable to be assessed or rated in respect of their occupation of property within the district (whether city, town or other place as aforesaid, or any division thereof) for which the panchâyat shall be appointed, and shall enter the same in a list which shall specify the names of the several occupiers of property within the district liable to be assessed or rated under the provisions of this Act, the trade, business or other description of such occupier, the property occupied and the amount payable monthly by such occupier.

If the tax be a rate on the annual value of the property occupied, such annual value and the total amou of the annual rate shall also be specified.

Magistrate's requisition.

The requisition of the Magistrate to the panchâyat to make out such list shall be in the form marked A or B, as the case may be, set forth in the appendix to this Act annexed, or to the like effect.

Panchâyat may revise existing assessment or rate.

16. The panchâyat shall, if required by the Magistrate so to do, instead of making a new assessment or rate, revise and amend the assessment or rate then in force.

Magistrate may amend and settle assessment or rate as revised.

17. When an assessment or rate shall have been made or revised, as the case may be, the panchâyat shall forward to the Magistrate the list containing the same; and the Magistrate shall revise, and, if necessary, amend and settle it.

Assessment or rate to be published.

18. When the assessment or rate shall have been settled, the Magistrate shall sign the list, and shall cause one copy thereof, together with a notification prepared according to the form marked C in the appendix to this Act, or to the like effect, and written in the language of the Province in which the

city, town or place is situate, to be stuck up in some conspicuous place in the district for which the assessment or rate has been made; and another copy, together with a like notification, at the nearest Police-tháná; and shall also cause a third copy to be deposited in his own office.

Assessment or rate to stand good for one year. Effect of change of occupation before new assessment or rate.

19. Unless revised or corrected as hereinafter provided, every assessment or rate under this Act shall stand good for one whole year, and until a new one is made, and in case the occupier of any property included in any assessment or rate shall be changed before a new one is made, the new occupier shall be liable in respect of such property for any portion of the assessment or rate which shall have become payable during his occupation instead of the former occupier thereof; and, after notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupier.

Revised assessment or rate deemed new.

Every assessment or rate which shall be revised according to the provisions of section 16 shall be deemed a new assessment or rate.

Continuance of assessment of past year.

Provided always, that, if no new assessment or rate is made within the first three months of any year, the list of the previous year shall be republished according to the provisions of section 18, and shall thereupon be deemed to be the assessment or rate for the current year, and shall be open to appeal under the next succeeding section.

Appeal from assessment or rate.

20. Any person assessed or rated, who shall be dissatisfied with his assessment or rate, or who shall dispute his occupation of any property, or his liability to be assessed or rated, may appeal on unstamped paper to the Magistrate, and the Magistrate, after making such inquiries as he deems necessary, by examination of the appellant on oath or solemn affirmation, or otherwise, may confirm the assessment or rate or amend the same.

Award of costs.

In case the Magistrate confirm the assessment or rate, he may award costs against the appellant.

Decision on appeal. Bar of jurisdiction.

The decision of the Magistrate in such cases shall be final, and no objection shall be taken to any assessment or rate, nor shall the liability of any person to be assessed or rated be questioned in any other manner or by any other Court.

Limitation of appeal.

Provided that no appeal shall be received after the expiration of one month from the time of the notification of the assessment or rate prescribed by section 18, or of the notification of the substitution of the name of an occupier under section 19, unless the Magistrate, upon reasonable cause shown, shall extend the time for receiving such appeal.

Commissioner may direct revision of as-

21. The Commissioner of Circuit, with the consent of the Local Government, may at any time direct the Magistrate to revise the assessment or

sessment or rate.

rate of any city, town or other place as aforesaid, specifying the reasons which, in his opinion, render such revision necessary, and the Magistrate shall, according to such direction, revise and, if necessary, amend the same.

Magistrate may direct revision at any time of year, for reasons stated.

22. The Magistrate may require the panchâyat to revise the assessment or rate at any period during the year; but on every such occasion he shall address a written order to the panchâyat, specifying the reasons which render such revision necessary, and requiring an amended return within a stated period.

Publication of assessment or rate as revised.

23. Whenever any assessment or rate is revised during the year as provided in the two last preceding sections, a revised list, together with a notification as prescribed in section 18, shall be prepared and published in the manner therein directed.

Objections.

And all objections to such revised assessment or rate shall be made and dealt with in the manner prescribed in section 20.

Penalty for refusal to serve on panchâyat.

24. If any person appointed a member of a panchâyat refuse to undertake the office, or omit to perform the duties thereof, and do not, within fifteen days from the date of his appointment, shew satisfactory grounds for his refusal or omission, or provide such a substitute as the Magistrate approves, the Magistrate may fine such person in a sum not exceeding fifty rupees.

If panchâyat refuse or omit to act, Magistrate may assume their functions.

25. If the persons appointed a panchâyat, or a majority of them, refuse or omit, for a period of fifteen days after the receipt of an order from the Magistrate, to perform the duties required of them, the Magistrate may himself make or revise the assessment or rate, and may enforce the same as if it had been made or revised in the first instance by the panchâyat:

Proviso.

Provided that the functions of the panchâyat shall not thereby absolutely cease and determine, but may be resumed at any time, only not so as to invalidate any act done by the Magistrate under this section.

Residents only bound to act on panchâyat.

26. No person shall be bound to act on a panchâyat unless he shall reside or carry on business within the limits of the district for which the panchâyat is to be appointed.

Duration of panchâyat and limitation of service thereon.

27. Every panchâyat shall be appointed for the period of one year, and no person shall be compelled to serve on a panchâyat for more than one year at a time, or within less than three years after the expiry of previous service; but nothing in this section shall prevent any person from being appointed to serve on a panchâyat at any time whatsoever with his own consent.

Member of panchâyat removeable only on application of rate-payers.

28. If a majority of the persons assessed or rated in any district for which a panchâyat shall be appointed, not being in arrear, make application in writing to the Magistrate for the removal of any member of the panchâyat appointed for such district, the Magistrate, if he think it expedient, may remove such member from the panchâyat.

Vacancies in panchâyat how supplied.

29. If any vacancy shall occur among the members of a panchâyat, or if any member appointed shall refuse or decline or be unable to act, the Magistrate may nominate and appoint another person to supply the vacancy or to act in the stead of such member, subject to the rules already laid down as to the original appointment of members; but such appointment may be made by a written communication to the person appointed, and it shall not be necessary to issue a new sanad under section 14 of this Act.

Panchâyat to report misconduct of chaukídárs, or death or absence.

30. The panchâyat shall give notice to the Magistrate of any neglect or misconduct on the part of any chaukídár within the district for which they are appointed, which shall come to their knowledge; and shall also give notice of any vacancy which shall occur in consequence of the death or absence of any chaukídár or from any other cause.

Appointment and duty of sadr panchâyat.

31. In cities and large towns containing three or more divisions or districts, the Magistrate may appoint a sadr panchâyat consisting of not less than five members, who may be selected either from the members of the local panchâyats or from any other residents of the city or town.

It shall be the duty of the sadr panchâyat to assist the Magistrate, when required so to do, in carrying out generally the objects of this Act, and particularly in revising the assessment or rate made by the district panchâyats and enquiring into and reporting on appeals preferred against the same.

Appointment and registry of chaukídárs.

32. The chaukídárs to be employed under this Act shall be appointed by the Magistrate, and the Magistrate shall cause to be kept a register in which shall be entered the name, age, place of residence and previous occupation of every person so appointed, with the date of his appointment.

Appointment of jamadárs and inspectors.

33. Subject to the approval of the Commissioner of Circuit, the Magistrate may appoint such number of jamadárs and inspectors as may be necessary for the supervision and control of the chaukídárs:

Their number.

Provided that the number of these officers shall not be greater than one jamadár to fifteen chaukídárs, and one inspector to sixty chaukídárs.

Appointment of tax-collectors and other establishment.

34. Subject to the approval of the Commissioner of Circuit, the Magistrate may appoint one or more tax-collectors or dároghas, and such other servants as may be necessary, for preparing or assisting the panchâyat in preparing the assessment or rate, for copying the same, for collecting the tax, keeping the accounts and records and otherwise carrying out the purposes of this Act.

Security.

The Magistrate shall take from every tax-collector or dárogha such security for the due disposal of the sums collected by him as may be thought necessary.

Contingent expenses.

35. The Magistrate may further incur any reasonable expense in the purchase of stationery, in providing badges, dresses and weapons for the chaukídárs, and for any other contingencies that may seem to him necessary.

Surplus-funds may be devoted to conservancy-purposes.

36. After paying the wages of the chaukídárs, and defraying the charges specified in the three last preceding sections of this Act, the Magistrate may, with the sanction of the Commissioner of Circuit, appropriate any sum which may be available to the purpose of cleansing the city, town or place, or of lighting or otherwise improving the same.

Register of assessments.

37. The tax-dároghas shall prepare from the lists hereinbefore mentioned a register, which shall be attested by the Magistrate or his Deputy or Assistant, and shall contain the names of all persons assessed or rated so far as they can be ascertained, the property in respect of which the assessment or rate in each case is imposed, and the amount payable monthly by each person.

Collection of assessment.

38. On the tenth of each calendar month or so soon after as possible, the tax-dárogha shall proceed in person, or through some one of his office-establishment, to collect the amount due for the current month from each person subject to the tax, and for all sums so collected, the dárogha shall grant a receipt:

Provided that, with the sanction of the Commissioner of Circuit previously obtained, the collection may be made quarterly instead of monthly; and in such case, the amount due for each quarter shall be collected in the last month of that quarter.

Remittance of collections.

39. The tax-dárogha shall remit to the Magistrate, in such manner as the Magistrate shall direct, all sums of money collected either by himself or by any one of his establishment, and the Magistrate or some officer of his establishment authorized on that behalf shall give the dárogha a receipt for every sum of money so remitted.

The Magistrate shall also cause all such sums of money to be credited to a separate fund, to be called the Chaukídárí Fund of the city, town or place in or on account of which they are collected.

Preparation of summons, &c.

40. The tax-dárogha shall prepare all summonses and processes to be issued against defaulters, and shall make the usual returns thereto, and shall keep a regular account of all distresses levied and sales made by him for the realization of arrears.

Report of defaulters to Magistrate.

41. On the twentieth of each calendar month, or as soon after as possible, the tax-dárogha shall deliver or transmit to the Magistrate, in one list, a statement of all defaulters, the property in respect to which they are assessed or rated, the amount of the monthly assessment or rate, and the amount due from each.

Summoning defaulters.

42. On receipt of the aforesaid list, the Magistrate shall issue a summons against each of the defaulters therein mentioned, requiring him either to pay the demand or to attend at the kachahrí of the Magistrate within a reasonable time, to be specified in the summons, to shew cause for his refusal.

Assessment to be levied from defaulters by distress and sale.

43. If any defaulter fail to appear in answer to the summons, or having appeared, fail to satisfy the Magistrate that no arrear is due from him, the Magistrate may issue a warrant to the tax-dárogha, authorizing him to levy the whole or any part of the demand by distress and sale of any goods and chattels belonging to the defaulter, or being at any time upon the premises in respect of which the arrear is due; and the Magistrate's order as contained in the warrant shall be final.

Sale how conducted.

44. The tax-dárogha shall make an inventory of all goods and chattels seized under the Magistrate's warrant, and shall give previous notice of the sale, and the time and place thereof, by beat of drum, in the district in which the property is situated.

Proceeds how applied.

If the arrear be not paid with costs, or the warrant be not in the meantime discharged or suspended by the Magistrate, the goods and chattels seized shall be sold at the time and place specified, in the most public manner possible; and the proceeds shall be applied in discharge of the arrears and costs, and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure.

Returns of sale. Costs.

The tax-dárogha shall make a return of all such sales to the Magistrate in the form specified in appendix D, and the costs upon every such proceeding shall be such as are mentioned and set forth in appendix E annexed to this Act.

Penalty for tax-dárogha purchasing at such sales.

45. Any tax-dárogha or other servant appointed under this Act, and any chaukídár or officer of Police, who shall purchase any property at any such sale as aforesaid, shall be liable, upon conviction before a Magistrate, to a penalty not exceeding fifty rupees; and the property shall be confiscated.

Sale of property beyond limits of town, &c.

46. If no sufficient goods or chattels belonging to a defaulter, or being upon the premises in respect of which he is assessed or rated, can be found within the district in which the premises are situate, the Magistrate may issue his warrant to the Názir of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any personal property belonging to the defaulter within the jurisdiction of any other Magistrate whatsoever; and such other Magistrate shall back the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant.

Goods liable to distress.

47. All goods and chattels, except tools or implements of trade, which may be found upon any premises in respect of which an arrear is due, shall be liable to be distrained for the recovery of such arrear.

Owner of goods to be indemnified by defaulter.

If the goods and chattels belong to any person other than the defaulter, the defaulter shall indemnify the owner of such goods and chattels from any

damage he may sustain by reason of such distress or by reason of any payment he may make to avoid such distress or any sale under the same.

Limit to distress.

Provided that no distress shall be made for any arrears due under this Act, after the expiration of six calendar months from the time when such arrears became due.

Penalty for obstructing tax-dárogha in execution of duty.

48. Every person who shall wilfully obstruct or molest any tax-dárogha or any of his establishment, in the performance of their duties under this Act, or shall fraudulently conceal, remove or dispose of any of his property for the purpose of avoiding a distress under the provisions of this Act, or shall knowingly assist any other person in so doing, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees.

Magistrates to try complaints against tax-dárogha for extortion, &c.

49. The Magistrates shall receive and try all complaints preferred on oath or solemn affirmation against any tax-dárogha or other person appointed under this Act, for extortion, malversation or other misconduct in the discharge of his duty.

Penalty for extortion, &c.

On proof of any such offence, the tax-dárogha or other person as aforesaid shall be liable to dismissal from office, and to imprisonment, with or without labour, for a period not exceeding six months, and may also be compelled to refund any money corruptly or unduly exacted or received, and to deliver up any effects which may have been illegally distrained or sold, or the value thereof, or in default and until such delivery or refund be made, shall be liable to further imprisonment, with hard labour, for not more than six months.

Saving of power to commit.

But nothing in this section shall be taken to prevent the Magistrate from committing any tax-dárogha or other person as aforesaid for trial before the Sessions Court, or to limit the power of the Sessions Court in regard to the punishment of such offences under the general law.

Powers, duties and liabilities of chaukídárs, jamadárs and inspectors.

50. The chaukídárs and the jamadárs and inspectors appointed under this Act, shall exercise all the powers, and perform all the duties, and be subject to all the liabilities, of Police-officers as prescribed in the general Regulations of the Bengal Code or Acts of the Government of India for the time being in force, so far as such powers, duties and liabilities are not inconsistent with, or otherwise expressly provided for by, this Act.

The chaukídárs and the jamadárs and inspectors are in all respects subordinate to the Police-dárogha of the thánd within the limits of which they may be employed.[a]

Chaukídárs to wear badges.

51. Every chaukídár appointed under this Act shall wear a badge with a number, and the name of the city, town, place or division for which he is appointed, engraved thereon.

[a] Sections 50 to 56 are partially repealed by Bengal Act No. VI of 1867.

Power of chaukídárs—

to arrest without warrant:

52. Every chaukídár and every jamadár and inspector appointed under this Act shall have power, without warrant, to apprehend and convey immediately to the nearest Police-station any person or persons taken in the act of committing any heinous offence, or whom he shall have just cause to suspect to be about to commit or to have committed a heinous offence, or against whom a hue and cry shall be raised:

to prevent nuisances:

Second.—He shall have power to prevent obstructions and nuisances on the roads and streets:

to give intelligence of resort of thieves, &c.:

Third.—He shall give immediate intelligence to the Police-dárogha of the resort to his division of any receivers of stolen goods, or of any robbers or other persons of notorious or suspected character, or of any circumstances likely to occasion a breach of the peace:

to examine and detain suspected persons.

Fourth.—He may stop, examine, and if necessary detain, any person who shall be reasonably suspected at any time of having or conveying any thing stolen, or who shall be found between sunset and sunrise lying or loitering in any highway, yard or other place, and unable to give a satisfactory account of himself, and may convey such person to the nearest Police-station.

Assistance to chaukídárs in making arrests.

53. If a chaukídár or other Police-officer be unable to effect an arrest, he may require all persons present to assist him; and any person who refuses or neglects to comply with such requisition shall be liable, on conviction by a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment not exceeding two months.

Chaukídárs, &c., how paid.

54. On the fifteenth day of each month, or on such other day not later than the fifteenth day of the month as the Magistrate may appoint, the chaukídárs and the jamadárs and inspectors (if any) shall be mustered at the tháná to which they are attached, and the Police-dárogha or muharrir of the tháná shall there pay them the wages due to them up to the close of the preceding month, and shall at the same time take the receipt of each chaukídár in an official register of receipts prepared for the purpose; and the dárogha, after signing the register in attestation of its correctness, shall transmit the same to the Magistrate.

Punishment of officers for neglect of duty, &c.

55. Any chaukídár and any jamadár or inspector appointed under this Act, who is convicted of neglect of duty or misconduct, shall be liable to fine to an extent not exceeding half a month's wages, or to imprisonment for any period not exceeding six months.

Suspension or dismissal of Police-officers.

56. The Magistrate may suspend or dismiss any officer appointed under this Act, whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Fines how disposed of.

57. All fines levied under this Act shall be credited to the Chaukídárí Fund and held available for the purposes of this Act.

58.—[*Repealed by Act No. X of 1872.*]

Control over proceedings of Magistrate and Commissioner.

59. All the proceedings of a Magistrate under this Act, except as otherwise specially provided, shall be subject to the control of the Commissioner of Circuit; and all the proceedings of the Commissioner of Circuit shall be subject to the control of the Local Government.

Act not to apply to Calcutta.

60. Nothing contained in this Act shall extend to the town of Calcutta.

Interpretation-clause.

61. Wherever in this Act, or in any appendix thereto, there is nothing in the context requiring a different interpretation—

the word "Magistrate" shall include a Joint Magistrate and any person lawfully exercising the powers of a Magistrate:

the word "House" shall include any shop or warehouse:

the word "Bázár" shall mean any place of trade where there is a collection of shops or warehouses:

the word "District" shall mean a city, town, bázár or union, or any division thereof:

the expression "Police-dárogha" shall include any Tahsíldár or Náib-tahsíldár entrusted with Police-jurisdiction.

APPENDIX A.

To

[*Here insert the names, places of abode, business or other description of the panchávat.*]

I do hereby require you, the panchávat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of , a fair and equitable assessment upon the several occupiers of houses, shops and buildings in the (*here describe the city, town, place or division*), for the purpose of raising the sum of rupees required for the maintenance of chaukídárs for the year commencing on and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances and the property to be protected of each person. But the amount assessed in respect of any one house shall not exceed rupees (*here insert the pay of a chaukídár of the lowest grade*), and the aggregate amount assessed shall not exceed the average rate of two annas per mensem for each house, shop or building in the district.

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house and shall be assessed accordingly.

The assessment which you are hereby required to make shall specify the name of every occupier of property liable to be assessed, the name, trade or business or other description of the person assessed, the annual assessment, and the quota payable monthly; and may be in the following form, or to the like effect:—

Property occupied.	Name of occupier.	Profession or business or other description.	Amount of monthly payment.

APPENDIX B.

To

[*Here insert the names, places of abode, business or other description of the panchâyat.*]

I do hereby require you, the panchâyat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of , a fair and equal rate upon the several occupiers of houses, shops and buildings, and of grounds occupied for the purpose of trade or business, in the (*here describe the city, town, place or division*), for the purpose of raising the sum of rupees required for the maintenance of chaukídárs for the year commencing on and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of the rate to be levied from every such occupier according to the annual value of the property occupied.

The rent at which any such property may reasonably be expected to let for one year shall be deemed the annual value of such property. The rate shall be an equal percentage, not exceeding five per cent., of such annual value.

Any person occupying ground for the purpose of trade is to be rated in respect thereof, but a person occupying ground for the purpose of cultivation or for depasturing cattle is not to be rated in respect thereof.

If the occupier of any house or ground in the said district shall be unable, on the ground of poverty, to pay the rate to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house, and shall be rated accordingly.

The rate which you are hereby required to make shall specify the name of every occupier of property liable to be rated, the name, trade or business or other description of the person rated, the annual rateable value of the property

the annual rate, and the quota payable monthly; and may be in the following form, or to the like effect:—

Property occupied.	Name of occupier.	Profession or business or other description.	Annual value of property.	Annual rate.	Amount of monthly payment.

APPENDIX C.

An assessment (*or* rate, *as the case may be*), made for (*here describe the city, town, village or other place or division for which the rate is made*) upon the several occupiers of houses and other property in the said district, pursuant to Act XX of 1856, for the purpose of maintaining chaukídárs for such district.

Property occupied.	Names of occupiers.	Profession or business.	Amount of monthly (*or* quarterly) assessment (*or* rate).

Whereas the above assessment (*or* rate, *as the case may be*) has been duly made pursuant to Act XX of 1856, and has been revised and settled by me, the undersigned Magistrate of , the several persons whose names are included in the said assessment (*or* rate) are hereby required to pay the monthly (*or* quarterly) contributions set opposite to their names with regularity to the tax-dárogha or other person appointed by the Magistrate to receive the same the first payment on the tenth day of the month next succeeding the date of this notification, and every subsequent payment on or before the tenth day of each succeeding month (*if the tax is to be collected quarterly, the months in which the payment is to be made must be specified*), or in default thereof, any arrear that may be due will be realized by distraint and sale of the personal effects of the defaulter, or of any goods and chattels which may be found on the premises in respect of which such defaulter is assessed (*or* rated), and such other proceedings adopted for the recovery of the same as are allowed by law.

Dated this day of

Magistrate of

APPENDIX D.

1	2	3	4	5	6	7	8	9	10	11
District.	Names of defaulters.	Amount of defalcation.	Amount, cost, or penalty.	Inventory of property seized under distress.	Date of distress.	Date of sale.	Property sold.	Amount realized on each article.	Purchaser's name.	Balance.

APPENDIX E.

Table of Fees payable in Distraints under this Act.

Sum distrained for.	Fee.	
	Rs.	As.
Under 1 rupee	0	4
1 and under 3 rupees	0	8
3 „ 5 „	1	0
5 „ 10 „	1	8
10 „ 15 „	2	0
15 „ 20 „	2	8
20 „ 25 „	3	0
25 „ 30 „	3	8
30 „ 35 „	4	0
35 „ 40 „	4	8
40 „ 45 „	5	0
45 „ 50 „	5	8
50 „ 60 „	6	0
60 „ 80 „	7	8
80 „ 100 „	9	0
Above 100	10	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

ACT No. XXII of 1856.

Received the Governor General's assent on the 5th of December 1856.

An Act for establishing a toll on boats and timber passing through the Karatoyá river in the district of Bogra.[a]

Preamble.

WHEREAS it is expedient, with a view to afford facilities for the internal commerce of the districts of Dinájpur, Rangpur and Bogra, to adopt measures for the improvement of the navigation of that part of the Karatoyá river which lies within the district of Bogra, and whereas any measure which may be adopted for this purpose will necessarily occasion a considerable outlay at the first, and an annual expense thereafter, and it is just and reasonable that, to defray the same, a moderate toll should be levied on all boats, timber, rafts and floats, passing through or within such part of the said river; and

[a] Properly Bagurá.

whereas it is expedient to encourage individual enterprise, and the employment of private capital on works of public utility; It is enacted as follows:—

Tolls may be levied on Karatoyá.

1. Tolls, at the rates specified in the schedule annexed to this Act, may be levied on all boats, timber, rafts and floats passing through or within the aforesaid part of the Karatoyá river, at such stations or places as the Lieutenant-Governor of Bengal may from time to time appoint.

The said tolls shall be levied by such persons, and under such rules, as the said Lieutenant-Governor may direct; and all such rules shall be duly notified in the English and vernacular Gazettes for public information.

But not till measures taken for improving navigation.

2. Provided that no such toll shall be levied until the Lieutenant-Governor of Bengal shall be satisfied, by the report of a competent person, that effective measures have been taken to render the passage through the said part of the Karatoyá river navigable throughout the year.

Provided, also, that the levy of the said tolls shall be continued only so long as the passage is kept so navigable.

Boats, &c., may be detained and sold for non-payment of toll.

3. Any person duly appointed or authorized to collect the said tolls may detain any boat, timber, raft or float, for which the toll chargeable under this Act is not paid; and, on the report of such person, which report shall be made within twenty-four hours, the Deputy Collector of Bogra or other public officer duly authorized by Government in that behalf, may publish a notice appointing a day for the sale of the same.

At or after the time appointed by the notice, which shall not be less than fifteen days from the date of the publication thereof, if the toll be not paid, or sufficient cause for non-payment be not shown to the satisfaction of the Deputy Collector or other officer as aforesaid, such officer may sell the thing detained, or, in the case of a boat, such part of the tackle or lading thereof, or, in the case of a raft or float, such part of the same, as may be necessary for the recovery of the toll, and shall pay the overplus, if any, to the owner on demand.

Penalty for unlawful detention.

4. Any person who, under colour of this Act, shall unlawfully detain any boat, timber, raft or float, or shall neglect, or without lawful excuse delay, to report the detention of any boat, timber, raft or float, to the Deputy Collector or other officer as aforesaid, or shall demand or receive as toll any larger sum than is authorized by the schedule annexed to this Act, shall, on conviction before a Magistrate, or other officer exercising the powers of a Magistrate, forfeit a sum not exceeding two hundred rupees.

Government may authorize person to carry out objects of Act.

5. For the purpose of carrying out the objects of this Act, the Lieutenant-Governor of Bengal may authorize any public officer to cut any canal, clear and deepen any channel, stop any watercourse, or take any other measures which may be judged necessary for making the river navigable as aforesaid,

or may grant the like authority to any private person who may undertake to carry out those objects at his own expense; and may take possession, as for a public purpose, of any land that may be necessary for the execution of any of the above-mentioned works, under the provisions of Regulation I of 1824,[a] or of any Act that may hereafter be in force for taking possession of land for public purposes,[b] whether the said works are to be executed at the expense of Government, or of such private person as aforesaid.

And may make grant of tolls.

6. If the Lieutenant-Governor shall grant authority to any private person to carry out the objects of this Act at his own expense, he may also make a grant of the said tolls to such person upon such conditions and for such a term as to the said Lieutenant-Governor shall appear just and proper, and may authorize such person, or any person or persons employed by him, to collect the said tolls.

SCHEDULE

Of tolls chargeable on boats, timbers, rafts and floats, passing into or through the Karatoyá river within the district of Bogra.

Bajrás, bhauñliyás and other boats for personal accommodation ...	4 annas per oar.
Boats of burthen, empty	At the rate of two annas per 100 mds. burthen.
Ditto ditto laden with bricks, tiles and earthenware; straw, grass, reeds and fire-wood; fruit and vegetables	At the rate of four annas per 100 mds. burthen.
Ditto ditto with grain, pulse, seeds and any other article not expressly enumerated ...	At the rate of twelve annas per 100 mds. burthen.

Timbers in rafts or otherwise, not being in boats, two annas each timber.

Bamboos in floats, four annas per 100 bamboos.

[a] Repealed by Act No. VIII of 1868.

[b] Act No. X of 1870.

Every boat less than 50 maunds burthen shall be rated as 25 maunds—every boat of 50 maunds and less than 75 maunds shall be rated as 50 maunds—every boat of 75 maunds and less than 100 maunds shall be rated as 75 maunds—every boat of 100 maunds and less than 125 maunds shall be rated as 100 maunds, and so on.

Any number of bamboos less than an even hundred shall be rated as 100.

ACT No. X of 1857.

Received the Governor General's assent on the 20th of May 1857.

An Act to amend Act XXXVII of 1855.

Preamble. WHEREAS by Act XXXVII of 1855[a] certain districts described in the schedule to the said Act were removed from the operation of the general Regulations and Acts; and whereas it is expedient to make certain alterations in respect to the districts so removed; It is enacted as follows:—

Districts removed from operation of general Regulations and Acts. All the provisions of the said Act, which are applicable to the districts described in the said schedule, shall, after the passing of this Act, be applicable only to the districts described in the schedule to this Act, in the same manner as if the schedule to this Act had been the schedule to Act XXXVII of 1855.

SCHEDULE.

The Dámin-i-Koh.

So much of Pargana Bhágalpur and of Pargana Satiyárí as lies east of the Geruá Nadí and south of a line drawn eastward from Hamzá Chak to the village of Dighi.

Zila Bhágalpur.	Pargana	Tiliyágarhí.	Except such parts of them as are now or may hereafter be situate on the left bank of the main stream of the Ganges, so that in any change in the course of the river the main stream shall be the boundary.
	„	Jamuní.	
	„	Chituliyá.	
	„	Kánkjaul.	
	„	Bahádarpur.	
	„	Akbarnagar.	
	„	Ináyatnagar.	
	„	Makráin.	
	„	Sultánganj.	

[a] Will be repealed by Act No. XIV of 1874, when that Act is extended to the Sontal Districts.

Zila Bhágalpur.	Pargana Ambár. „ Sultánábád. „ Goddá. „ Amolmotiyá. „ Pasai. „ Hándwá. Tappá Manihárí. „ Belpattá.	Except such detached villages as lie within the general boundaries of parganas not mentioned in this schedule.
Zila Bírbhúm.	Pargana Pabbiyá. Tappá Sarath Deogarh. „ Kandit Karaiyá. „ Muhammadábád. Such part of Pargana Darin Maulesh-war as lies north of the Chilla or Chandan Ghát Nálá.	

Such detached portions of other parganas and tappás as lie within the general boundaries of any of the above-mentioned parganas and tappás.

Such portions of parganas belonging to Máldah and Purniyá below the village of Khídirpur in Pargana Tiliyágarhí, as are now or may hereafter be situate on the right bank of the main stream of the Ganges.

ACT No. XIII of 1857.

Received the Governor General's assent on the 6th of June 1857.

An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal.[a]

Whereas the existing law relating to the cultivation of the poppy and the manufacture of opium on account of Government is in some respects inconsistent with the practice which now obtains under agreement between the Preamble

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts Act No. XV of 1874.

Opium Agents and the cultivators, and it is expedient that such inconsistency should be removed; and whereas it is also expedient that certain obsolete Regulations relating to the provision of opium should be formally repealed, and that the laws for preventing the illicit cultivation of the poppy, and for regulating the cultivation of the poppy and the manufacture of opium on account of Government, should be consolidated and amended; It is enacted as follows:—

1.—[*Repealed by Act No. XIV of 1870.*]

2.—[*Repealed by Act No. I of 1878.*]

Officers entrusted with superintendence of provision of opium.

3. The superintendence of the provision of opium for Government shall be entrusted to Agents or other officers, being covenanted servants of the Company duly appointed by Government in that behalf, who shall perform the duties connected therewith under the control and direction of the Board of Revenue in Calcutta.

Assistants to Agents.

The Agents or other officers as aforesaid shall be assisted by Deputy Agents and Sub-deputy Agents, or such other officers, covenanted or uncovenanted, as the Government may from time to time appoint for the purpose.

Collector *ex officio* Deputy Agent.

The Collector of the district shall ordinarily, and unless Government shall otherwise direct, be *ex officio* Deputy Agent; and the relative duties and powers of the Deputy Agents and Sub-deputy Agents shall be from time to time regulated by the said Board with the sanction of Government.

Officers amenable to civil Courts.

4. The Opium Agents, and their subordinate officers of every description, are declared amenable to the civil Courts for all acts done by them in their official capacity, except as otherwise herein provided.

Bar of suit without previous application to Agent for redress.

But no suit shall be instituted against an Agent, or any subordinate officer, for any act done in his official capacity, unless the person who shall consider himself aggrieved by the act of such Agent or officer shall have first made application for redress to the Agent himself.

In the event of such person not being satisfied with the order which the Agent may pass upon his application, it shall then be competent to him either to lay his case by petition before the Board of Revenue, or at once to seek redress in the civil Court.

Sanction to suit by Agent.

5. The Opium Agents shall not in their official capacity institute any suit in a civil Court without the previous sanction of the Board of Revenue.

Board may in certain cases appoint officer to conduct or defend suits.

6. In cases in which the Board of Revenue may judge it expedient, or in which they may be so directed by Government, they may take upon themselves, or intrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in

which they or an Agent, or any other officer subordinate to them, may be engaged, instead of leaving such superintendence to the Agent or any other officer.

Board to fix limits of cultivation and price to be paid to cultivators.

7. The Board of Revenue, with the sanction of Government, shall from time to time fix the limits within which licenses may be given for the cultivation of the poppy on account of Government.

With the like sanction they shall from time to time fix the price to be paid to the cultivators for the opium produced.

The price shall be fixed at a certain sum per ser of eighty tolas for opium of a certain standard consistence, and shall be subject to a rateable reduction, according to a scale sanctioned by the Board of Revenue, for opium of a consistence below the standard.

Issue of licenses.

8. The Sub-deputy Agents or other officers entrusted with the superintendence of the cultivation shall, at the proper period of the year, issue licenses to the cultivators who may choose to engage to cultivate the poppy and to deliver the produce to the officers of Government at the established rates.

What to be specified in license.

Every license shall specify the number of bighás which the party engages and is authorized to cultivate, and shall be in such form as the Agent, with the sanction of the Board of Revenue, may direct.

A counterpart-engagement, in conformity with the tenour of the license, shall be taken from the cultivator.

Cultivator to have option to engage to cultivate or not. Officers compelling cultivator to engage liable to be dismissed.

9. It shall be at the option of every cultivator to enter into engagements for the cultivation of the poppy or not as he may think fit; and any Sub-deputy Agent or other officer as aforesaid, or any inferior officer employed in the provision of opium, who shall compel, or use any means to compel, any cultivator to enter into engagements, or to receive advances, for the cultivation of the poppy, shall be liable to be dismissed from his situation.

Sub-deputy Agent may withhold license to cultivate.

It shall be at the option of the Sub-deputy Agent or other officer as aforesaid to withhold a license from any cultivator whenever he may think proper so to do.

Appeal.

Any person to whom a license has been refused may appeal to the Agent, and the decision of the Agent shall be final.

Penalty on cultivator receiving advances and not cultivating full quantity of land. Adjudication of penalty.

10. If it shall be found that any cultivator who has received advances from Government has not cultivated the full quantity of land for which he received such advances, he shall be liable to a penalty of three times the amount of the advances received for the land which he has failed to cultivate; and the said penalty may be adjudged by the Deputy Agent or Collector, on the complaint of the Sub-deputy Agent or other officer as aforesaid.

Appeal.

Any person dissatisfied with the judgment of the Deputy Agent or Collector may appeal to the Agent, and the decision of the Agent shall be final.

Delivery of opium produced.

11. All opium the produce of land cultivated with poppy on account of Government, shall be delivered by the cultivators to the Sub-deputy Agents or other district-officers, or shall be brought by them to the sadr factory, as the Agent may direct.

Opium not liable to distress or attachment.

And no such opium shall be liable to be distrained or attached by a zamíndár or other proprietor, or a farmer of land, for the recovery of arrears of rent, or by any other creditor of a cultivator under any order or decree of Court, but the sum due to the cultivator on account of such opium may be attached by order of Court in the hands of the Agent or of the district-officer under the rules in force for such attachments.

Value thereof may be attached.

Opium to be weighed and classified by Sub-deputy Agent.

12. All opium delivered by the cultivators to the Sub-deputy Agent or other district-officer shall, before it is forwarded to the sadr factory, be weighed, examined and classified according to its quality and consistence by that officer, or his assistant if duly authorized by the Agent in that behalf, in the presence of the cultivators and in conformity with rules sanctioned by the Board of Revenue.

Proceeding where cultivator is dissatisfied with classification.

Any cultivator who may be dissatisfied with the classification of the district-officer shall be at liberty either to take his opium to the sadr factory, or to have it forwarded thither by such officer separate from the opium respecting which no dispute has arisen.

Weighing and examination at sadr factory.

13. All opium forwarded by the district-officers to the sadr factory, and all opium delivered at the sadr factory by the cultivators, shall be there weighed and examined by the Opium Examiner or other officer duly authorized in that behalf, agreeably to rules sanctioned by the Board of Revenue; and the quality and consistence of the opium, and the deductions from or additions (if any) to the standard-price to be made in accordance with the said rules, shall be determined by the result of such examination.

The decision of the Examiner, or of the Agent in cases in which a reference to the Agent may be prescribed by the said rules, shall be final and conclusive, and not open to question in any Court.

Confiscation of adulterated opium.

14. When opium delivered by a cultivator, either to a district-officer, or at the sadr factory, is suspected of being adulterated with any foreign substance, it shall be immediately sealed up pending examination by the Opium Examiner, and notice of such intended examination shall be given to the cultivator.

Adjudication of confiscation.

If upon such examination the opium shall be found to be so adulterated, the Agent on the report of the Examiner may order that it be confiscated and the order of the Agent shall be final, and not open to question in any Court

15. The weights and scales made use of in the sadr factories and at the district-kothís shall be provided by the Board of Revenue. Weights and scales.

Every district-officer shall annually, before beginning to weigh the opium of the season, examine the weights and scales in use in his district and shall report the result of such examination to the Agent. Examination thereof.

The Agent shall make a similar examination of the weights and scales of the sadr factory, and shall report the result to the Board.

No weights or scales shall be made use of which on any such examination have not been found to be strictly accurate.

It shall be the duty of all officers who may superintend the weighing of opium, to see that the opium is weighed fairly with an even beam, and the practice of taking excess weight for the purpose of turning the scale, or as an allowance for dryage and wastage, is hereby prohibited.

16. The accounts of the cultivators shall be adjusted annually by the district-officers as soon after the conclusion of the weighing and examination as possible; and any balance that may remain due from any cultivator, or from any mahto or intermediate manager, may be recovered by the district-officer by distress and sale of the property of the defaulter or of his surety, in the same manner and under the same rules as the property of defaulting cultivators in estates held khás may be distrained and sold by the Collector for the recovery of an arrear of rent or revenue. Adjustment of cultivator's accounts, and recovery of balance by distress.

Provided that no warrant of distress and sale shall be issued by any district-officer without the sanction of the Agent previously obtained. Sanction to issue of warrant.

17. Any officer of the Opium Department who shall receive any fee, gratuity, perquisite or allowance, either in money or effects under any pretence whatsoever, from any cultivator or from any other person employed or concerned in the provision of opium, other than the authorized allowances of his situation, shall be dismissed from his office, and, on conviction before a Magistrate, shall be liable to a fine not exceeding five hundred rupees. Penalty on officer taking bribes.

18. If any zamíndár or other proprietor of land, or any farmer of land, shall exact from any raiyat on account of his poppy-land any illegal cess or any higher rate of rent than he is lawfully entitled to demand, the raiyat, or the Sub-deputy Agent or other district-officer on his behalf, may institute a suit before the Collector, and recover from such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty of treble the amount of such excess; and such suit shall be tried according to the rules prescribed for suits instituted before a Collector relating to arrears or exactions of rent. Exactions by landholder from raiyat recoverable, together with penalty, in summary suit before Collector.

19. Any cultivator entering into engagements for the cultivation of the poppy on account of Government, who may embezzle, or otherwise illegally Penalty for embezzlement of opium by cultivator.

dispose of, any part of the opium produced, shall be liable to a penalty not exceeding ten times the fixed price of the opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred rupees if the amount of the said penalty be less than that sum, and the opium, if found, shall be liable to confiscation.

Penalty for illegal purchase of opium from cultivator.

20. Any person purchasing or receiving any opium from a cultivator or other person who may have entered into engagements for the cultivation of the poppy, or who may be employed in the provision of opium on account of Government, or bargaining for the purchase of opium with such cultivator or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any opium, and any officer of the Opium Department conniving in any way at the embezzlement or illegal disposal of any opium, shall be liable to a fine not exceeding one thousand rupees, unless the opium purchased, bargained for or illegally disposed of, shall exceed the weight of thirty-one sers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two rupees per ser for all such opium in excess of that weight; and the opium, if found, shall be liable to confiscation.

And for illegal connivance at embezzlement by opium-officer.

Penalty for unlicensed cultivation.

21. Any person who shall cultivate the poppy without license from a Sub-deputy Agent or other officer duly authorized in that behalf, and any person who shall in any way cause, encourage or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty bíghás, in which case the fine may be at the rate of twenty-five rupees per bíghá; and the poppy-plants shall be destroyed, or, if any opium have been extracted from them, it shall be seized and confiscated.

If the opium shall have been extracted and shall not be seized, the offender shall be liable to a further fine not exceeding the rate of thirty-two rupees per bíghá of land illegally cultivated.

Duty of land-holders and others to give information of illegal cultivation.

22. All proprietors, farmers, tahsíldárs, gumáshtas and other managers of land, shall give immediate information to the Police or Ábkárí-dároghas, or opium gumáshtas, or to the Magistrates, Collectors or officers in charge of the Ábkárí mahál, or to the Agents, their deputies or sub-deputies, of all poppy which may be illegally cultivated within the estates or farms held or managed by them; and every proprietor, farmer, tahsíldár, gumáshta or other manager of land, who shall knowingly neglect to give such information, shall be liable to the penalties for illegal cultivation prescribed in the last preceding section.

Duty of Police and other officers to give information of illegal cultivation.

23. All Police and Ábkárí-dároghas, and opium gumáshtas, and all Native officers of Government of whatever description, and all chaukídárs, paiks and other village Police-officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any

land has been illegally cultivated with poppy; and such authority shall transmit the information to the Sub-deputy Agent or other officer superintending the cultivation of the poppy, if in a district where the poppy is cultivated on account of Government, or to the Collector or officer in charge of the Ábkárí mahál, if in a district where the poppy is not so cultivated.

Every Police or Ábkárí-dárogha, opium gumáshta, Native officer, chaukídár or other Police-officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the poppy, shall be liable to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or in any other case to a fine not exceeding five hundred rupees.

Police or Ábkárí-dárogha how to proceed in case of illegal cultivation.

24. Whenever a Police or Ábkárí-dárogha or opium gumáshta shall receive intelligence of any land within his jurisdiction having been illegally cultivated with poppy, he shall immediately proceed to the spot, and if the information be correct, shall attach the crop so illegally cultivated, and report the same without delay to the Authority to which he may be subordinate.

He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate; and in the event of such cultivator not giving the required security, he shall send him in custody to the Magistrate.

Landholders, &c., may attach in cases of illegal cultivation.

25. Proprietors, farmers, tahsíldárs, gumáshtas and other managers of land, shall be at liberty to attach any poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest Police or Ábkárí-dárogha or opium gumáshta, who shall thereupon proceed in conformity with the rules contained in the last preceding section.

Adjudication of penalties.

26. Except as otherwise herein provided, all fines, penalties and confiscations prescribed by this Act shall be adjudged by the Magistrate[a] on the information of the Deputy Agent or Sub-deputy Agent in districts in which the poppy is cultivated on account of Government, and in other districts on the information of the Collector or officer in charge of the Ábkárí mahál;

provided that no information of an offence against this Act shall be admitted unless it be preferred within the period of one year after the commission of the offence to which the information refers.

Imprisonment in default of payment of fine.

27. When any person is sentenced to pay any fine or penalty under this Act, such person, in default of payment of the same, may be imprisoned by

[a] 8 Bengal Law Reports, Appendix, 8.

order of the Magistrate for any time not exceeding six months, or until the fine is sooner paid.

Punishment for repetition of offences.

28. Whenever any person shall be convicted of an offence against this Act after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Place of imprisonment under section 28.

29. Every person who shall be imprisoned under the last preceding section, or on account of the non-payment of any fine or penalty prescribed by this Act, unless such person be an officer of Government or a village Police-officer convicted of an offence under section 17, 20 or 23, shall be imprisoned in the civil jail.

Disposal of fines and forfeitures.

30. One-half of all fines and penalties levied from persons convicted of offences under sections 19, 20 and 21 of this Act, together with a reward of one rupee eight annas for each ser of opium confiscated and declared by the Civil Surgeon to be fit for use, shall, upon adjudication of the case, be awarded[a] to the officer or officers who apprehended the offender, and the other half of such fines and forfeitures, together with a reward of one rupee eight annas for each ser of opium confiscated as aforesaid, shall be given to the informer.

If in any case the fine or penalty is not realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of two hundred rupees, as may seem to them fit.

Governor General may allow free cultivation of poppy and manufacture of opium in any district.

31. The Governor General of India in Council may authorize, by an order of Government, the cultivation of the poppy and the manufacture of opium in any district or districts without license from a Sub-deputy Opium Agent or other officer of Government; and when such order has been published, all the provisions of this Act shall cease to have effect in such district or districts:

Power to prescribe rules for delivery to Government officers.

Provided always that the Government may prescribe rules for the delivery of the opium so produced to officers of Government appointed to receive it; and when such rules have been passed, any cultivator or other person engaged in the cultivation of the poppy and manufacture of opium who shall dispose of any opium otherwise than is allowed by such rules, and any person who shall purchase or receive any such opium in contravention of the said rules, shall be subject to the penalties prescribed in section 19 of this Act; and such penalties may be adjudged by a Magistrate on the information of any officer of Government or of any other person.

[a] 8 Bengal Law Reports, Appendix, 8.

ACT No. XXI OF 1857.

Received the Governor General's assent on the 10th of July 1857.

An Act to make better provision for the order and good government of the station of Howrah.

Preamble.

WHEREAS Acts have been passed for regulating the Police and for the conservancy and improvement of the Town of Calcutta and of the other Presidency-towns; and whereas large portions of the station of Howrah are not less populous than parts of the said town, and it will conduce to the order and good government of the said station that some of the provisions of the said Acts, with certain necessary modifications, should be extended to the said station; It is enacted as follows:—

Cases under this Act by whom to be tried.

1. Whoever is charged with having committed any of the offences mentioned in this Act within the limits of the said station, as described in the schedule hereunto annexed, may be tried for any such offence by the Magistrate within whose jurisdiction the offence is alleged to have been committed, and, on conviction, may be sentenced by such Magistrate to the punishment hereinafter prescribed for the offence.

Possession of stolen property by one who fails to account satisfactorily therefor.

2. *Clause 1.*—Whoever has in his possession, or conveys in any manner, any thing which may be reasonably suspected of being stolen or fraudulently obtained, shall, if he fail to account satisfactorily how he came by the same, be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Power to summon persons declared to have had possession of stolen property within the jurisdiction of the Magistrate.

Clause 2.—If any person, charged with having or conveying any thing stolen or fraudulently obtained, shall declare that he received the same from some other person, or that he was employed as a carrier, agent or servant, to convey the same for some other person, the Magistrate may cause every such other person, and also, if necessary, every former or pretended purchaser or other person through whose possession the same shall have passed (provided that such other person shall be alleged to have had possession of the same within the jurisdiction of such Magistrate) to be brought before him and examined, and shall examine witnesses touching the same;

Penalty if such possession fraudulent.

and if it appear to such Magistrate that any person so brought before him had possession of such thing, and had reasonable cause to believe the same to have been stolen or unlawfully obtained, such person shall be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Apprehension and punishment of re-

3. Any person found, between sunset and sunrise, armed with any dangerous or offensive instrument whatsoever, with intent to commit any

puted thieves, &c.

offence against the person or property of another; any reputed thief found, between sunset and sunrise, on board any vessel or boat, or lying or loitering in any bázár, street, road, yard, thoroughfare or other place, who shall not give a satisfactory account of himself; any person found, between sunset and sunrise, having his face covered or otherwise disguised, with intent to commit any such offence as aforesaid; any person found, between sunset and sunrise, in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein; and any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking, shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months; and any such person may be taken into custody by any Police-officer without a warrant.

Penalty for carrying arms without authority.

4. Whoever, not being a soldier or sailor in the Army or Navy of the Queen, or a Police-officer, goes armed with any sword, spear, gun or other offensive weapon, in any street, thoroughfare or public place, unless by leave of the Magistrate, shall be liable to be disarmed by any Police-officer; and the weapon so seized shall be forfeited to the Government, unless redeemed by payment of a fine, at the discretion of the Magistrate, not exceeding ten rupees.

Magistrate may make order for maintenance of wives or children.

5. If any person, having sufficient means, neglects or refuses to maintain his wife or any legitimate or illegitimate child unable to maintain himself, it shall be lawful for the Magistrate, upon due proof thereof, to order such person to make a monthly allowance for the maintenance of his wife or such child as aforesaid, at such rate, not exceeding fifty rupees in the whole, as to the Magistrate shall seem reasonable; and if such person shall wilfully neglect to comply with the said order, the Magistrate may, by warrant, direct the amount due to be levied in the manner in which fines may be levied, or may order him to be imprisoned, with or without hard labour, for any term not exceeding one month.

Provided always that any such person shall be at liberty to apply to the Magistrate, from time to time, for a reduction of such monthly allowance, on proof of an alteration in the circumstances of himself, his wife or child, justifying such reduction.

Penalty for harbouring and concealing deserters from merchant-vessels.

6. Whoever wilfully harbours or conceals any seaman or apprentice belonging to a merchant-vessel, knowing or having reason to believe such seaman or apprentice to be a deserter, shall be liable to a fine not exceeding one hundred rupees.

Brothels.

7. On the complaint of three or more householders, that a house in their immediate neighbourhood is used as a common brothel or lodging-house for prostitutes or disorderly persons of any description, to the annoyance of the

respectable inhabitants of the vicinity, the Magistrate may summon the owner or tenant of the house to answer the complaint; and on being satisfied that the house is so used, and is therefore a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it; and if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty-five rupees for every day thereafter that the house shall be so used.

Grant of licenses for retail-sale of spirituous or fermented liquors.

8. Except as hereinafter provided, no license shall be granted by the Collector for the sale by retail of any spirituous or fermented liquors in any hotel, tavern, punch-house, ale-house, arrack or toddy-shop, or other place of public resort and entertainment, without the concurrence of the Magistrate.

If a difference should arise between the Collector and the Magistrate respecting the grant of any such license, the case shall be reported to the Commissioner of Revenue and Circuit; and the decision of the Commissioner, subject to the orders and control of the Lieutenant-Governor of Bengal, shall be final.

Revocation of license.

9. Whenever any person, being the keeper of any such house or place of public resort and entertainment as aforesaid, is convicted of any of the offences specified in section 45, Act XXI of 1856,[a] the Magistrate may, if he think proper, apply to the Collector to revoke the license granted by him to such person; and upon such application the Collector shall forthwith revoke such license.

Penalty for owning or keeping, or having charge of, a gaming-house, &c.

10. Whoever, being the owner or occupier, or having the use, of any house, room or place, keeps or uses the same as a common gaming-house; and whoever, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be kept or used by any other person as a common gaming-house; and whoever has the care or management of, or in any manner assists in conducting, the business of any house, room or place so kept or used; and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, room or place—shall be liable to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Penalty for being found playing in a gaming-house.

11. Whoever is found in any such house, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is

[a] Repealed by Bengal Act No. VII of 1878. The repealed section is as follows:—

Penalty for permitting drunkenness, &c., in shop.

45. Every person licensed to sell spirituous or fermented liquors, or intoxicating drugs, who shall permit drunkenness, riot or gaming in his shop, or shall permit persons of notoriously bad character to meet or remain therein, or shall receive any wearing apparel or other effects in barter for liquors or drugs, shall forfeit for every such offence a sum not exceeding 200 rupees.

found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month; and any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Magistrate may authorize certain Police to enter gaming-house for search and seizure.

12. If the Magistrate, upon information on oath, and after such enquiry as he may think necessary, has reason to believe that any house, room or place is used as a common gaming-house, he may, by his warrant, give authority to any superior officer of Police to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room or other place; and to take into custody all persons whom he finds therein, whether or not then actually gaming; and to seize all instruments of gaming, and all monies and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming which are found therein; and to search all parts of the house, room or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody; and to seize and take possession of all instruments of gaming found upon such search.

On conviction for keeping a gaming-house, instruments of gaming to be destroyed, &c.

13. On conviction of any person for keeping any such common gaming-house or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate, who may also order all or any of the securities for money, and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all monies seized therein, to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Portion of fine may be paid to informer.

14. The Magistrate may direct any portion, not exceeding one-fourth, of any fine which shall be levied under sections 10 and 11 of this Act, or any part of the monies or proceeds of articles seized and ordered to be forfeited under section 13, to be paid to an informer.

Gambling in streets.

15. A Police-officer may apprehend without warrant any person found gaming with cards, dice, counters, money or other instruments of gaming, in any public street, place or thoroughfare; and such person shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month; and such instruments of gaming and money shall be forfeited.

Pawn-brokers and money-changers to

16. If any property regarding which written or printed information shall be given by any Police-officer to any pawn-broker or dealer in second-hand

property, or money-changer, as having been stolen, embezzled or fraudulently obtained, shall then be or thereafter come into the possession of, or be offered in pawn or for sale or change to, such pawn-broker, dealer or money-changer, he shall, without unnecessary delay, give information at the nearest Police-office, that certain property answering the description of the said property was offered to him or is in his possession, and shall also state the name and address given by the party by whom the same was offered, or from whom the same was received, under a penalty not exceeding fifty rupees for each and every such neglect or offence; provided always that, in the case of wearing apparel or other articles, which it may be difficult for such pawn-broker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawn-broker or dealer.

report stolen property under a penalty for neglect.

17. If any pawn-broker or dealer in second-hand goods, or worker in gold or silver, after receiving information of the theft, or the embezzling, or the fraudulent disposal, of any metals, goods or articles of whatsoever description, melts, alters, defaces or puts away the same, or causes the same to be melted, altered, defaced or put away, without having previously received the permission of the Magistrate, and it shall be found that such metals, goods or article, were stolen, embezzled or fraudulently disposed of by the person from whom such pawn-broker, dealer or worker received the same, or by any other person, then and in such case it shall be held that such pawn-broker, dealer or worker knew that such metals, goods or articles were stolen, embezzled or fraudulently disposed of; and such pawn-broker, dealer or worker shall be proceeded against according to law as a receiver of stolen goods, or as being a party to the fraud, and punished accordingly: and no other evidence of his guilt shall be necessary than evidence of such melting, altering, defacing or putting away, after receiving information as aforesaid.

If stolen articles be altered or defaced by broker, after information of the theft, he shall be deemed a receiver of stolen goods.

18. Whoever manufactures gunpowder, or without a license from the Magistrate has in his possession, in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds, shall be liable to a fine not exceeding two hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

Manufacture or possession of gunpowder.

19. The Magistrate may grant to any person a license for the sale or keeping in deposit of any quantity of gunpowder not exceeding fifty pounds, on such conditions, and for such term not exceeding one year, as shall be specified in the license; and any person who shall be guilty of a breach of any of such conditions shall be liable to a fine not exceeding one hundred rupees, and to

Licenses by Magistrate for sale and deposit of gunpowder, &c.

forfeit all gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also to forfeit his license.

Penalty for drunkenness, or riotous or indecent behaviour in public.

20. Whoever is found drunk and incapable of taking care of himself or is guilty of any riotous or indecent behaviour in any street or thoroughfare or in any place of public amusement or resort, and whoever is guilty of violent behaviour in any Police-office, shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for a term not exceeding fourteen days.

Penalty for committing nuisance in streets.

21. Whoever wilfully and indecently exposes his person, or commits a nuisance by easing himself in or by the side of or near to any public street or thoroughfare or place, shall be liable to a fine not exceeding ten rupees, or, in default of payment thereof, to imprisonment, with or without hard labour, for a term not exceeding fourteen days.

Beggars.

22. Whoever in any public road, street, thoroughfare or place begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity, with the object of exciting charity or of obtaining alms; or whoever seeks for or obtains alms, by means of any false statement or pretences—shall be liable to imprisonment, with or without hard labour, for any term not exceeding one month.

Penalty for committing, in public streets, the offences of Furious or negligent driving or riding:

23. Whoever, in any public street, road, thoroughfare or place of public resort, commits any of the following offences, shall be liable to a fine not exceeding twenty rupees:—

i.—Whoever drives or rides any animal, or drives any vehicle, in a manner so rash or negligent as to indicate a want of due regard for the safety of others:

Letting loose horses, ferocious dogs, &c.:

ii.—Whoever negligently lets loose any horse, or suffers to be at large any ferocious dog without a muzzle, or sets on or urges any dog or other animal to attack, worry or put in fear, any person, horse or other animal:

Leaving cart, &c., without control:

iii.—Whoever being in charge of a cart, carriage or horse, leaves it at such a distance as not to have the same under due control:[a]

Obstructing passengers:

iv.—Whoever fastens any animal so as to cause obstruction or danger to passengers:

Ill-treating animals:

v.—Whoever cruelly beats, abuses or tortures any animal:

Lighting fires, discharging guns, fire-works, &c.

vi.—Whoever sets fire to or burns any straw or other matter, or lights any bon-fire, or wantonly discharges any fire-arm or airgun, or lets off or throws any fire-work, or sends up any fire-balloon.

[a] Repealed, in the town and suburbs of Calcutta by Bengal Act No. I of 1864, as regards drivers of hackney-carriages under that Act.

Beating drums, tom-toms, &c.

24. Within such parts of the said station as shall be from time to time defined by the Magistrate with the sanction of the Lieutenant-Governor of Bengal, whoever beats a drum or tom-tom, or blows a horn or trumpet, or beats or sounds any metal instrument or utensil, between the hours of ten at night and four in the morning, in any public street, road or thoroughfare, so as to disturb the repose of the inhabitants, except when permitted by the Magistrate on occasions of festivals and ceremonies, shall be liable to a fine not exceeding twenty rupees.

25 to 32.—[*Repealed by Bengal Act No. V of 1876.*]

Houses in ruinous and dangerous state.

33. If, in any street, any house, building or wall, or anything affixed thereon, be deemed by the Magistrate to be in a ruinous state or likely to fall, or in any way dangerous to the inhabitants of such house or building, or to the neighbouring houses or buildings, or the occupiers thereof, or to passengers, he may cause notice in writing to be given to the owner, if he be known and resident within the limits of his jurisdiction, and may also cause such notice to be put on the door or other conspicuous part of the said premises, or otherwise to be given to the occupier thereof (if any), requiring such owner or occupier forthwith to take down, secure or repair such house, building, wall or thing affixed thereon, as the case shall require; and if such owner or occupier do not begin to repair, take down or secure the same within three days after such notice, and complete such work with due diligence, the Magistrate may cause all or so much of such house, building, wall or thing, as he shall think necessary, to be taken down, repaired or otherwise secured; and all the expenses shall be paid by the owner of the premises, and shall be recoverable from him as hereinafter provided.

Sale of materials of ruinous houses.

34. If any such house, building or wall, or any part of the same, be pulled down by virtue of the powers aforesaid, the Magistrate may sell the materials thereof, or of so much of the same as shall be taken down, and apply the proceeds of such sale in payment of the expenses incurred, and shall restore any overplus arising from such sale to the owner of such house, building, or wall on demand.

The Magistrate, although he sell such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale, as by this Act are given to him for compelling the payment of the whole of the said expenses.

Penalty on occupier of house not removing filth.

35. Whoever, being the occupier of a house in or near any street, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth or any noxious or offensive matter, in or upon the roof of such house, or in any out-house,

yard or ground attached to and occupied with such house, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth therefrom, and to cleanse and purify the same, shall be liable to a fine not exceeding fifty rupees.

Filthy houses, &c.

36. Whoever, being the owner or occupier of any house, building or land, in or near any street, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or overgrown with rank and noisome vegetation, shall be liable to a fine not exceeding fifty rupees, and to a fine not exceeding five rupees for every day after conviction for such offence during which the offence is continued.

Penalty for keeping sheep-pen, &c., in a filthy state.

37. Whoever, being the owner or keeper of any cattle, sheep or pigs, suffers the stall, pen or place in which they are kept, in or near any street, to be in a filthy or noxious state, or neglects to employ proper means to remove the filth therefrom, shall be liable to a fine not exceeding twenty rupees.

38.—[*Repealed by Bengal Act No. V of 1876.*]

Penalty for keeping private drain, &c., in improper state.

39. Whoever, being the owner of any private drain, privy or cess-pool, neglects or refuses, after warning from the Magistrate, to keep the same in a proper state, shall be liable to a fine not exceeding fifty rupees.

40 to 45.—[*Repealed by Bengal Act No. V of 1876.*]

Penalty for keeping slaughter-house in improper state.

46. Every owner or occupier of any slaughter-house, or of any market or shop for the sale of butcher's meat, fish or vegetables, shall keep the same in a cleanly and proper state, and shall admit at all reasonable hours any person authorized by the Magistrate to enter and inspect the same; and the owner or occupier of any such slaughter-house, market or shop, which shall not be kept in a cleanly and proper state, shall be liable for every default to a fine not exceeding twenty rupees.

47 to 50.—[*Repealed by Bengal Act No. V of 1876.*]

Police-officer may arrest without warrant on view of offence.

51. Any Police-officer may arrest without a warrant any person committing in his view any offence against this Act, if the name and address of such person be unknown to him.

Police may take into custody, without warrant, persons charged with recent aggravated assault.

52. Any Police-officer may take into custody, without a warrant, any person who is charged with committing an aggravated assault, in every case in which he shall have good reason to believe that such assault has been committed, although not in his view, and that, by reason of the recent commission of the offence, a warrant could not have been obtained for the apprehension of the offender.

Persons taken into custody by Police without warrant

53. Every person taken into custody without a warrant by a Police-officer under this Act shall be taken to the nearest Police-office, in order that such person may be detained until he can be brought before the Magistrate, or

until he shall enter into recognizances, with or without sureties, for his appearance before the Magistrate. may be detained in Police-office until brought before Magistrate or bailed.

Any person so detained and not entering into recognizances shall be carried before the Magistrate within twenty-four hours from the time of his being taken into custody.

54. Upon any information or complaint laid before the Magistrate of any offence committed against this Act, the Magistrate may summon the person charged to appear at a time to be mentioned in the summons; or, if he see sufficient cause for so doing, may issue a warrant for his apprehension. Procedure on information or complaint laid before Magistrate of offence against Act.

The provisions of the general Regulations of the Bengal Code and Acts of the Government of India for the time being in force, relative to the issue and service of summonses and warrants, to the summons, attendance and examination of witnesses, and generally to the trial of cases, to the recovery of fines and penalties, and to appeals against orders and sentences passed by a Magistrate, shall be applicable to all cases under this Act.

Provided that, in all cases of offences punishable with fine only, if after due service of summons the person charged shall not appear in pursuance thereof, the Magistrate, at his discretion, may hear and determine the case in his absence.

Provided also that no appeal shall lie from any order of a Magistrate passed with the sanction of the Lieutenant-Governor of Bengal, under section 49 [a] of this Act.

55. In all cases where any costs or expenses are by this Act directed to be paid, the amount of the same shall be ascertained and determined by the Magistrate; and the Magistrate may, for that purpose, summon the parties, and examine them and the witnesses on their behalf; and such amount, together with the costs of the enquiry, shall be recoverable in the same manner as fines may be recovered. Recovery of costs or expenses.

56. Any Joint Magistrate or Deputy Magistrate duly authorized to exercise the powers of a Magistrate, and any Assistant vested with special powers may, in cases referred to him by the Magistrate, exercise all the powers vested in a Magistrate by this Act. Jurisdiction.

57. All fines imposed and levied under this Act shall be applied in aid of any fund applicable to Police and conservancy purposes in the said station; and all costs and expenses which the Magistrate is hereby authorized to incur, shall be paid from and repaid to such fund; or, if there be no such fund, all such fines as aforesaid shall be applied by the Magistrate to the cleansing or otherwise improving of the said station. Application of fines.

[a] Repealed by Bengal Act No. V of 1876.

Act to supersede provisions of Act XXI of 1841.

58. With respect to all matters expressly provided for by this Act, and within the limits subject to the same, the provisions of this Act shall be held to supersede the provisions of Act XXI of 1841.

Interpretation.

59. In the construction of this Act, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; words importing the masculine gender shall include females.

SCHEDULE

Of Places included in the Station of Howrah.

STATION OF HOWRAH.

Howrah, (including)
- Panchánantalá.
- Juláhápárá.
- Chándmárí (with Tandel Bágán).
- North Betrá.
- South Betrá.
- Ichhápur.
- Saunpur.
- Goládángá.
- Rámkrishnapur.
- Khúrat (with Kasondiyá).
- Chakarber.
- Sántrágáchhi.
- Sathgharra.
- Gudár Hát (with Kinkar Chatterjea's Hát).
- Battore.

Shibpur (with Báji Shibpur, Majerhát, Bharpára, Bhattatalá, Sríharinaupárá, Bishop's College and Company's Botanical Garden).
- Padmapukhar.
- South Baksará.
- North Baksará.

Salkiyá, (including) Bándághát (with Haraganj and Bánurjyapárá).
- Ghoosery (with Bhát Bágán).
- Málípánchghará.
- Barrackpur.
- Bellur.
- Naksha.
- Chakpára.
- Nallua.
- Belgáchhiyá (with Paikán Belgáchhiyá).
- Báhmangachchhi.
- Chaurásta (with Dharmtalá, Goghátá and Bábúdángá).
- Golábárí (with Fílkhána).

ACT No. XXXI OF 1858.

Received the Governor General's assent on the 24th of August 1858.

An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.[a]

Preamble.

WHEREAS, for the removal of doubts respecting the course proper to be followed in the settlement of land added by alluvial accession to estates paying revenue to Government, it is expedient to lay down certain rules to be observed in the settlement of such land; It is enacted as follows:—

Addition of revenue assessed upon alluvial land to jama of original estate.

1. When land added by alluvial accession to an estate paying revenue to Government becomes liable to assessment, if it be so agreed on between the Revenue-authorities and the proprietor or proprietors, the revenue assessed upon the alluvial land may be added to the jama of the original estate; and in such case a new engagement shall be executed for the payment of the aggregate amount, and that amount shall be substituted in the Collector's rent-roll for the former jama of the original estate.

When separate settlement to be made.

If the proprietor or proprietors object to such an arrangement, or if the Revenue-authorities are of opinion that a settlement of the alluvial land cannot properly be made for the same term as the existing settlement of the original estate, the alluvial land shall be assessed and settled as a separate estate with a separate jama, and shall thenceforward be regarded and treated as in all respects separate from and independent of the original estate, whether the separate settlement be made with the proprietor or proprietors, or the land be let in farm in consequence of the refusal of the proprietor or proprietors to accept the terms of settlement.

The separate settlement may be permanent, if the settlement of the original estate is permanent.

Rights of under-tenants in alluvial land.

2. Nothing contained in the preceding section shall affect the rights of any under-tenant in any alluvial land under the provisions of clause 1, section 4, Regulation XI. 1825.[b]

It shall be the duty of all officers making settlements of such land, whether the land be settled separately or incorporated with the original estate, to ascertain and record all such rights according to the rules prescribed in Regulation VII. 1822;[c] and to determine whether any and what additional rent shall be payable in respect of the alluvial land by the person or persons entitled to any under-tenure in the original estate.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

[b] See *supra*, p. 224.

[c] See *supra*, p. 178.

The provisions of the said Regulation, so far as the same may be applicable, are hereby declared to extend to all settlements made under this Act.

Separate settlements heretofore made.

3. Every separate settlement of alluvial land heretofore made shall be as good and effectual for the purposes specified in section 1 as the same would have been if made subsequently to the passing of this Act.

Saving of rights.

Provided that nothing contained in this Act shall be held to affect the rights which any person may have acquired, under a judicial decision or otherwise, before the passing of this Act.

ACT No. XL of 1858.

Received the Governor General's assent on the 11th of December 1858.

An Act for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal.[a]

Preamble.

WHEREAS it is expedient to make better provision for the care of the persons and property of minors not brought under the superintendence of the Court of Wards; It is enacted as follows:—

1.—[*Repealed by Act No. XIV of 1870.*]

Care of persons and property of minors not under Court of Wards.

2. Except in the case of proprietors of estates paying revenue to Government who have been or shall be taken under the protection of the Court of Wards, the care of the persons of all minors (not being European British subjects) and the charge of their property shall be subject to the jurisdiction of the civil Court.

Who may apply for certificate of administration.

3. Every person who shall claim a right to have charge of property in trust for a minor under a will or deed, or by reason of nearness of kin or otherwise, may apply to the civil Court for a certificate of administation;

No person to sue or defend suit without certificate.

and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge until he shall have obtained such certificate.

Power to allow relative of minor to act.

Provided that, when the property is of small value, or for any other sufficient reason, any Court having jurisdiction may allow any relative of a minor to institute or defend a suit on his behalf, although a certificate of administration has not been granted to such relative.

Who may apply to Court to appoint

4. Any relative or friend of a minor in respect of whose property such certificate has not been granted, or, if the property consist in whole or in part

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874.

of land or any interest in land, the Collector of the district, may apply to the civil Court to appoint a fit person to take charge of the property and person of such minor.

person to take charge of minor's property.

5. If the property be situate in more than one district, any such application as aforesaid shall be made to the civil Court of the district in which the minor has his residence.

Application where property in more than one district.

6. When application shall have been made to the civil Court either by a person claiming a right to have charge of the property of a minor or by any relative or friend of a minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same.

Procedure of Court on application.

On the day so fixed or as soon after as may be convenient, the Court shall enquire summarily into the circumstances and pass orders in the case.

Provided always that it shall be competent to the civil Court to direct any Court subordinate to it to make such enquiry and report the result.

Reference to subordinate Court.

7. If it shall appear that any person claiming a right to have charge of the property of a minor is entitled to such right by virtue of a will or deed, and is willing to undertake the trust, the Court shall grant a certificate of administration to such person.

Certificate of administration to whom to be granted.

If there is no person so entitled, or if such person is unwilling to undertake the trust, and there is any near relative of the minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a certificate to such relative.

The Court may also, if it think fit (unless a guardian have been appointed by the father), appoint such person as aforesaid or such relative or any other relative or friend of the minor to be guardian of the person of the minor.

Court may appoint guardian.

8. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the minor who may be desirous or willing to be entrusted with the charge of his property or person.

Court may call for report as to relative or friend.

9. If no title to a certificate be established to the satisfaction of the Court by a person claiming under a will or deed, and if there be no near relative willing and fit to be entrusted with the charge of the property of the minor, and the Court shall think it to be necessary for the interest of the minor that provision should be made by the Court for the charge of his property and person, the Court may proceed to make such provision in the manner hereinafter provided.

Proceeding if no title to certificate be established, and if there be no relative fit to be entrusted with property.

10. If the estate of the minor consist of moveable property or of houses, gardens or the like, the Court may grant a certificate to the Public Curator appointed under section 19, Act XIX of 1841[a] (*for the protection of moveable*

When Court may grant certificate to Public Curator or other person.

[a] See General Acts, vol. I.

and immoveable property against wrongful possession in certain cases), or, if there be no Public Curator, to any fit person whom the Court may appoint for the purpose.

Appointment of guardian.

11. Whenever the Court shall grant a certificate of administration to the estate of a minor to the Public Curator or other person as aforesaid, it shall at the same time appoint a guardian to take charge of the person and maintenance of the minor.

The person to whom a certificate of administration has been granted, unless he be the Public Curator, may be appointed guardian.

Guardian's allowance.

If the person appointed to be guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance, to be paid out of the estate of the minor, as under the circumstances of the case it may think suitable.

Minor's allowance.

The Court may also fix such allowance as it may think proper for the maintenance of the minor; and such allowance and the allowance of the guardian (if any) shall be paid to the guardian by the Public Curator or other person as aforesaid.

When Court may direct Collector to take charge of estate. Appointment of manager and guardian thereupon.

12. If the estate of the minor consist, in whole or in part, of land or any interest in land, the Court may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a manager of the property of the minor and a guardian of his person, in the same manner and subject to the same rules in respect of such appointments and of the duties to be performed by the manager and guardian respectively, so far as the same may be applicable, as if the property and person of the minor were subject to the jurisdiction of the Court of Wards.

Costs of enquiries.

13. In all enquiries held by the civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose application the enquiry was made, or out of the estate of the minor or otherwise, as it may think proper.

When civil Court may direct Collector to retain charge of shares and persons of certain minors.

14. Whenever one or more of the proprietors of an estate which has come under the jurisdiction of the Court of Wards on account of the disqualification of all the proprietors, ceases to be disqualified, and the estate, in consequence, ceases to be subject to the jurisdiction of the Court of Wards, notwithstanding the continued disqualification of one or more of the co-proprietors, the Collector of the district in which the estate is situate may represent the fact to the civil Court; and the Court, unless it see sufficient reason to the contrary, shall direct the Collector to retain charge of the persons, and of the shares of the property of the still disqualified proprietors, during the continuance of their disqualification, or until such time as it shall be otherwise ordered by the Court.

The Collector shall in such case appoint a guardian for the care of the persons, and a manager for the charge of the property of the disqualified proprietors, in the manner prescribed in section 12.

Provision for case of estates situated in more than one district.

If the property be situate in more than one district, the representation shall be made by the Collector who had the general management of the property under the Court of Wards, to the civil Court of his own district, and the orders of the Court of that district shall have effect also in other districts in which portions of the property may be situate.

Control of proceedings of Collector.

15. The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue-authorities.

Public Curator, &c., to furnish inventory

16. The Public Curator and every other administrator to whom a certificate shall have been granted under section 00 shall, within six months from the date of the certificate, deliver in Court an inventory of any immoveable property belonging to the minor, and of all such sums of money, goods, effects and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same.

and annual accounts.

And the Public Curator and every such other administrator shall furnish annually, within three months from the close of the year of the era current in the district, an account of the property in his charge, exhibiting the amounts received and disbursed on account of the estate, and the balance in hand.

Proceeding if accuracy of inventory or account be impugned.

If any relative or friend of a minor or any public officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the curator or administrator and enquire summarily into the matter and make such order thereon as it shall think proper, or the Court at its discretion may refer such petition to any subordinate Court.

Payment of surplus into treasury. Investment.

17. All sums received by the Public Curator or such other administrator on account of any estate, in excess of what may be required for the current expenses of the minor or of the estate, shall be paid into the public treasury on account of the estate, and may be invested from time to time in the public securities.

Powers of person to whom certificate granted, in management of minor's estate.

18. Every person to whom a certificate shall have been granted under the provisions of this Act, may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a minor, and may collect and pay all just claims, debts and liabilities due to or by the estate of the minor.

But no such person shall have power to sell or mortgage any immoveable property, or to grant a lease thereof for any period exceeding five years, without an order of the civil Court previously obtained.

Relative or friend may sue for account.

19. It shall be lawful for any relative or friend of a minor, at any time during the continuance of the minority, to sue for an account from any manager appointed under this Act, or from any person to whom a certificate shall have been granted under the provisions of this Act, or from any such manager or person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Continuance of suit after disqualification ceases.

20. If the disqualification of a person for whose benefit a suit shall have been instituted under this Act cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Revocation of certificate.

21. The civil Court for any sufficient cause may recall any certificate granted under this Act and may direct the Collector to take charge of the estate, or may grant a certificate to the Public Curator or any other person as the case may be; and may compel the person whose certificate has been recalled to make over the property in his hands to his successor, and to account to such successor for all monies received and disbursed by him.

Removal of guardian.

The Court may also for any sufficient cause remove any guardian appointed by the Court.

Penalty for neglect or refusal to deliver accounts or property.

22. The civil Court may impose a fine not exceeding five hundred rupees on any person who may wilfully neglect or refuse to deliver his accounts or any property in his hands, within the prescribed time, or a time fixed by the Court; and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court; and may also commit the recusant to close custody until he shall consent to deliver such accounts or property.

Civil Court may permit resignation of trust, &c.

23. The civil Court may permit any person to whom a certificate shall have been granted under this Act not being the Public Curator, and any guardian appointed by the Court, to resign his trust; and may give him a discharge therefrom on his accounting to his successor duly appointed, for all monies received and disbursed by him, and making over the property in his hands.

Remuneration of Public Curator, &c.

24. The Public Curator and every other administrator to whom a certificate shall have been granted under section 10 shall be entitled to receive such commission not exceeding five per centum on the sums received and disbursed by him, or such other allowance, to be paid out of the minor's estate, as the civil Court shall think fit.

Guardians of minors to provide for education.

25. Every guardian appointed by the civil Court or by the Collector under this Act, who shall have charge of any male minor, shall be bound to provide for his education in a suitable manner.

The general superintendence and control of the education of all such minors shall be vested in the civil Court or in the Collector, as the case may be; and the provisions of Act XXVI of 1854 (*for making better provision for the education of male minors subject to the superintendence of the Court of Wards*) shall, so far as is consistent with the provisions herein contained, be applicable to the civil Court or to the Collector, as the case may be, in respect to such minors, and to every such guardian.[a]

Act XXVI of 1854 declared applicable.

26. For the purposes of this Act, every person shall be held to be a minor, who has not attained the age of eighteen years.[b]

Persons under 18 years held minors.

27. Nothing in this Act shall authorize the appointment of a guardian of the person of a female whose husband is not a minor, or the appointment of a guardian of the person of any minor whose father is living and is not a minor; and nothing in this Act shall authorize the appointment of any person other than a female as the guardian of the person of a female.

Act not to authorize appointment of guardians of certain married women and other persons.

If a guardian of the person of a minor be appointed during the minority of the father or husband of the minor, the guardianship shall cease as soon as the father or husband (as the case may be) shall attain the age of majority.

Guardianship in certain cases when to cease.

28. All orders passed by the civil Court or by any subordinate Court under this Act, shall be open to appeal under the rules in force for appeals, in miscellaneous cases, from the orders of such Court and the subordinate Courts.

Appeals.

29. The expression "civil Court" as used in this Act shall be held to mean the principal Court of original jurisdiction in the district, and shall not include the Supreme Court; and nothing contained in this Act shall be held to affect the powers of the Supreme Court over the person or property of any minor subject to its jurisdiction.[c]

Construction of "civil Court." Powers of Supreme Court not affected.

Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

Number. Gender.

[a] Repealed, by Bengal Act No. IV of 1870, section 86, so far as it relates to any guardian appointed thereunder.

[b, c] See *Jadunath Mitter* v. *Bolyechand Dutt*, 7 Beng. 612, 613.

ACT No. V of 1859.

Received the Governor General's assent on the 4th of March 1859.

An Act to empower the holders of ghátwálí-lands in the district of Bírbhúm to grant leases extending beyond the period of their own possession.

Preamble.

WHEREAS it has been held that the ghátwáls of the district of Bírbhúm who pay the revenue of their lands directly to Government under the provisions of Regulation XXIX. 1814 of the Bengal Code have not the power of alienating their lands; and whereas, for the development of the mineral resources of the country in which the said ghátwálí-lands are situate, and for the improvement of the said lands, it is expedient that the power of granting leases for periods not limited by the term of their own possession, should in certain cases be extended to the possessors of such lands; It is enacted as follows:—

Right of ghátwáls of Bírbhúm to grant leases.

1. Ghátwáls holding lands in the district of Bírbhúm under the provisions of the aforesaid Regulation, shall have the same power of granting leases for any period which they may deem most conducive to the improvement of their tenures, as is allowed by law to the proprietors of other lands.

Proviso.

Provided that no lease of ghátwálí-lands for any period extending beyond the life-time or incumbency of the grantor of the lease shall be valid and binding on the successors of the grantor, unless the same shall be granted for the working of mines or for the clearing of jungle, or for the erection of dwelling-houses or manufactories, or for tanks, canals and similar works; and shall be approved by the Commissioner of the division, such approval being certified by an endorsement on the lease under the signature of the Commissioner.

Court of Wards and Revenue-authorities have like power in certain cases.

2. If any of the said ghátwálí-lands be at any time under the superintendence of the Court of Wards, or otherwise subject to the direct control of the officers of Government, it shall be lawful for the Court of Wards or the Commissioner to grant leases for any such purpose as aforesaid; and every lease so granted shall be valid and binding on all future possessors of the said lands, anything in the existing law to the contrary notwithstanding.

RECOVERY OF RENT ACT.

ARRANGEMENT OF SECTIONS.

SECTIONS.

1. [*Repealed.*]
2. Raiyat entitled to pattá.
3. Raiyats holding land at fixed rates to receive pattás.
4. If rent of land be not changed for twenty years.
5. Raiyats having right of occupancy, but not holding at fixed rates, to receive pattás.
6. Right of occupancy of raiyat cultivating or holding land for twelve years.
7. Saving of terms of written contracts.
8. Pattás to raiyats not having rights of occupancy.
9. Person granting pattá entitled to counterpart-engagement.
10. Exactions in excess of rent or receipt withheld.
Form of receipt.
11. Landholder not to compel attendance of tenant for adjustment of rent.
Payment of rent how enforced.
12. Damages for extorting payment of rent by duress.
13. Enhancement of rent of raiyat holding without, or after expiry, &c., of, written engagement.
14. Mode of contesting enhancement of rent.
15. Dependent taluqdár, &c., holding at fixed rent without change since permanent settlement, not liable to enhancement.
16. Rent of taluqdár, &c., not changed for twenty years to be *primâ facie* evidence of occupancy at that rent since permanent settlement.
17. Rent of raiyat having right of occupancy not to be enhanced unless—
rate paid by him is below that prevailing in adjacent places:
value of land, &c., has increased independently of raiyat:
quantity of land held by raiyat is greater than he has paid for.
18. When raiyat may claim abatement of rent.
19. Relinquishment of land by raiyat after notice.
20. What to be deemed arrear of rent.
21. Liability of raiyat to be ejected for arrear due.
Proviso.
22. Liability of farmer to have lease cancelled for arrear adjudged due.
Proviso.
23. Cognizance of suits under Act.
24. Suits by zamíndárs against agents for money or accounts.
25. Ejectment of cultivators, farmers, &c., by zamíndárs.
26. [*Repealed.*]
27. Registry of transfers of taluqs, &c.
Proviso.
28. Applications to dispossess grantees of land exempt from revenue.
29. Suits by or against sarbaráhkárs or tahsíldárs of estates held khás.

SECTIONS.

30. Commencement of—
suits generally;
31. suits for grant of pattás, &c;
32. suits for arrears of rent.
Proviso.
33. Suits against agents for money, papers or accounts.
Proviso.
34. Mode of instituting suits. Form of plaint or statement of claim.
35. Statement by whom presented.
36. Verification of statement.
Punishment for false verification.
37. [*Repealed.*]
38. Documentary evidence to be produced by plaintiff.
39. Production of document required by plaintiff from defendant.
40. [*Repealed.*]
41. Plaint in suit for ejectment of raiyat, &c., or for recovery of occupancy or possession of land, &c.
42. Statement may be returned or allowed to be amended.
43. Issue of summons; personal attendance of defendant may be required.
44. Day to be specified in summons how fixed. Defendant to produce necessary documents, and bring witnesses willing to attend without process.
45. Summons how served.
46. Endorsement by názir on summons.
47. Execution of process in other district.
48. Cost of serving summons or warrant to be deposited.
49. Warrant of arrest in what cases issued.
50. Procedure after arrest of defendant.
51. Procedure on defendant being brought before Collector.
Form of security-bond.
52. Procedure if warrant cannot be served.
53. Compensation for arrest applied for without reasonable cause.
54. Consequence of neither party appearing on day of trial.
55. When Collector to pass judgment by default; and when to decree upon admission.
Proviso.
56. If plaintiff only appear, Collector may proceed *ex parte*.
57. Defendant appearing at postponed hearing may be heard in answer.
58. Revival, reversal and alteration of decrees *ex parte* or by default.
59. On appearance, parties to be examined by Collector, and may cross-examine each other.
60. Examination of parties, &c.
61. Witnesses to be examined.
62. Documentary evidence to be produced by defendant.
63. After examination, Collector may make decree if no further evidence required.
64. Consequence of inability of agent to answer.
65. If necessary, Collector to record issue and to fix day for hearing further evidence.
66. Parties to produce witnesses on day of trial; or Collector, on application, to summon witness.

SECTIONS.

67. Rules regarding attendance, examination, &c., of witnesses.
68. Consequence of parties not appearing on day fixed for trial of issue.
69. Suits by and against náibs, gumáshtas, &c.
70. Personal attendance when not required.
71. Employment of authorized agents or mukhtárs.
72. Collector may grant time or adjourn hearing.
73. Collector may cause local enquiry to be made.
74. [*Repealed.*]
75. No interest on deposits.
76. Collector when to fix term for which pattá is to be granted.
77. In suits for rent third person claiming to be made party.
78. Suits for ejectment or cancelment of lease.
79. [*Repealed.*]
80. If person required by decree refuse to grant pattá, Collector may do so.
81. Refusal to execute kabúliyat as required by decree.
82. Mode of executing decree for ejectment or reinstatement of raiyat.
Punishment for obstructing execution.
83. Execution of decree for cancelment of lease or for ejectment or reinstatement of farmer or tenant.
84. When judgment-debtor may be detained or imprisoned without issue of process of execution.
85. Liability of surety on failure to deliver judgment-debtor into custody.
86. [*Repealed.*]
87. Application for execution against moveable property.
88. Duration of warrant.
89. Second and successive warrants.
90. After one year execution not to issue without notice.
91. Notice of execution against representative.
92. Execution after three years from date of judgment.
93. Warrant against person.
Limit of imprisonment.
If arrest be for non-delivery of account.
94. No second imprisonment under same judgment.
95. Deposit of diet-money.
96. Payment of diet-money in advance during imprisonment.
97. Diet-money to be costs in suit.
98. List of property taken in execution and proclamation of sale.
99. Custody and sale of moveable property taken in execution.
100. Collector may stay sale of moveable property seized, if third party claim interest therein.
101. Collector to adjudicate such claims.
102. Claimant failing to establish right, liable to compensate judgment-creditor.
103. No appeal from order under sections 101,102.
104. Sale not vitiated by irregularity in publishing or conducting.
Proviso.
105. Sale of transferable tenures in execution of decrees for arrears of rent.
106. If third party claim to be lawful possessor of tenure, Collector to stay sale and to enquire and adjudicate.

SECTIONS.

Proviso.
107. Mode of adjudicating claims.
108. Execution of decrees given in favour of sharers in undivided estates or tenures.
109. If execution against immoveable property when money-decree cannot be otherwise satisfied.
110. Execution against house or building—
Against saleable under-tenure.
If it be an estate or a share of an estate.
111. Consequence of objection offered before sale of immoveable property.
112. Produce of land held hypothecated for rent.
Arrears of rent recoverable by distraint under following rules.
Cultivators who have given security exempt from distraint.
Proviso.
113. Distraint when barred.
114. Power of distraint of managers under Court of Wards, &c.
Proviso.
115. Standing crops and crops gathered but not stored liable to distraint.
116. Defaulter to be served with written demand, &c., before or at time of distraint.
117. Distress proportionate to arrear.
List of property served on owner.
118. Standing crops, &c., when attached, to be reaped and stored by cultivator, or, if he neglect to do so, by distrainer.
119. Distrainer may apply for aid to Collector in case of resistance.
120. Servants employed to distrain to be furnished with written authority.
121. Distress withdrawn if defaulter tender payment of arrear and expenses prior to sale.
122. Application for sale.
123. Form of application.
Deposit of cost of notice to defaulter.
124. Procedure of Amín on receipt of application.
125. Amín to suspend sale on receipt of Collector's certificate of institution of suit.
126. Suit to contest distrainer's demand before notice of sale.
127. Distress withdrawn on receipt of Collector's certificate of execution of bond to pay amount due.
128. On expiration of period fixed in proclamation of sale, if institution of suit to contest demand not certified, sale may proceed.
129. Place and manner of sale of distrained property.
130. If fair price not offered, sale may be postponed and shall be then completed whatever price offered.
131. Payment of purchase-money.
132. Disposal of proceeds of sale.
133. Officers holding sales prohibited from purchasing.
134. Irregularities to be reported to Collector.
Officer not to sell if he find that defaulter has not received notice.
135. Recovery of expenses, if Amín proceeds to place of sale and no sale takes place.

SECTIONS.

136. Proceedings of Amíns, &c., subject to revision and orders of Collectors.
137. Second proclamation of sale.
138. Procedure after institution of suit to contest demand.
139. Owner of property distrained for arrears alleged to be due from another, may institute suit against distrainer, &c.
Proviso.
140. Procedure if right to distrain be disputed.
141. Persons prevented from suing in time to save property from sale, may sue for damages.
142. Also persons aggrieved by illegal act of distrainer.
143. Unlawful distraint.
144. Time for commencing suits for damages.
145. Resistance of distraint.
146. Service of process.
147. Resistance of process.
148. Place of holding Court.
149. } [*Repealed.*]
150. }
151. Control of Collectors and Deputy Collectors.
No appeal from orders of Collectors and Deputy Collectors in certain cases.
152. Time for presenting appeals from orders.
153. When appeal allowed from judgment of Collector for money below one hundred rupees.
154. Rehearing in suits not open to appeal.
155. Appeal from decision of Deputy Collector.
156. Petition of appeal.
157. Procedure in appeal.
158. Re-admission of appeal.
159. Judgment in appeal.
160. In what suits appeal to lie to Zila Judge.
To Sadr Court.
161. Presentation and hearing of appeals.
162. [*Repealed.*]
163. No jurisdiction in Collector as to lands beyond district.
164. Deputy Collector not to exercise judicial powers.
165. Powers to be exercised by Assistants to Collectors.
166. Saving of rights of proprietors under Reg. VIII. 1819.
167. [*Repealed.*]
168. Interpretation.

SCHEDULE.

ACT No. X of 1859.

Received the Governor General's assent on the 29th of April 1859.

An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.[a]

Preamble.

WHEREAS it is expedient to re-enact with certain modifications the provisions of the existing law relative to the rights of raiyats with respect to the delivery of pattás and the occupancy of land, to the prevention of illegal exaction and extortion in connection with demands of rent, and to other questions connected with the same; to extend the jurisdiction of Collectors, and to prescribe rules for the trial of such questions, as well as of suits for the recovery of arrears of rent, and of suits arising out of the distraint of property for such arrears; and to amend the law relating to distraint; It is enacted as follows:—

1.—[*Repealed by Act No. XIV of 1870.*]

Raiyat entitled to pattá.

2. Every raiyat is entitled to receive from the person to whom the rent of the land held or cultivated by him is payable, a pattá containing the following particulars:—

the quantity of land; and where fields have been numbered in a Government survey, the number of each field;

the amount of annual rent;

the instalments in which the same is to be paid;

and any special conditions of the lease.

If the rent is payable in kind, the proportion of produce to be delivered and the time and manner of delivery.

Raiyats holding land at fixed rates to receive pattás.

3. Raiyats who, in the Provinces of Bengal, Bihár, Orissa *and Benares*,[b] hold lands at fixed rates of rent which have not been changed from the time of the permanent settlement, are entitled to receive pattás at those rates.

If rent of land be not changed for twenty years.

4. Whenever, in any suit under this Act, it shall be proved that the rent at which land is held by a raiyat in the said Provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the permanent settlement, unless the contrary be shewn, or unless it be proved that such rent was fixed at some later period.

Raiyats having right of occupancy, but not holding at fixed rates, to receive pattás.

5. Raiyats having rights of occupancy, but not holding at fixed rates as described in the two preceding sections, are entitled to receive pattás at fair and equitable rates.

[a] Repealed by Bengal Act No. VIII of 1869, section 107, as to places to which that Act is extended.

[b] Repealed as to the provinces of Benares by Act No. XVIII of 1873.

In case of dispute, the rate previously paid by the raiyat shall be deemed to be fair and equitable, unless the contrary be shewn in a suit by either party under the provisions of this Act.

Right of occupancy of raiyat cultivating or holding land for twelve years.

6. Every raiyat who has cultivated or held land for a period of twelve years has a right of occupancy in the land so cultivated or held by him, whether it be held under pattá or not, so long as he pays the rent payable on account of the same; but this rule does not apply to khámár, nijjot or sír-land belonging to the proprietor of the estate or tenure and let by him on lease for a term or year by year, nor (as respects the actual cultivator) to lands sub-let for a term or year by year by a raiyat having a right of occupancy.

The holding of the father or other person from whom a raiyat inherits shall be deemed to be the holding of the raiyat within the meaning of this section.

Saving of terms of written contracts.

7. Nothing contained in the last preceding section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a raiyat when it contains any express stipulation contrary thereto.

Pattás to raiyats not having rights of occupancy.

8. Raiyats not having rights of occupancy are entitled to pattás only at such rates as may be agreed on between them and the persons to whom the rent is payable.

Person granting pattá entitled to counterpart-engagement.

9. Every person who grants a pattá is entitled to receive from the person to whom the pattá is granted a kabúliyat or counterpart-engagement in conformity with the terms of the pattá.

The tender to any raiyat of a pattá such as the raiyat is entitled to receive shall be held to entitle the person to whom the rent is payable to receive a kabúliyat from such raiyat.

Exactions in excess of rent or receipt withheld.

10. Every under-tenant or raiyat from whom any sum is exacted in excess of the rent specified in his pattá, or payable under the provisions of this Act, whether as abwáb or under any other pretext, and every under-tenant, raiyat or cultivator from whom a receipt is withheld for any sum of money paid by him as rent, shall be entitled to recover from the person receiving such rent damages not exceeding double the amount so exacted or paid.

Form of receipt.

Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

Landholder not to compel attendance of tenant for adjustment of rent, &c. Payment of rent how enforced.

11. The power heretofore vested in zamíndárs and other landholders of compelling the attendance of their tenants for the adjustment of their rents or for any other purpose is withdrawn, and all such persons are prohibited from adopting any means of compulsion for enforcing payment of the rents due to them other than are authorized by the provisions of this Act.

Damages for extorting payment of rent by duress.

12. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or raiyat by illegal confinement or other duress, such under-tenant or raiyat shall be entitled to recover such damages, not exceeding in any case the sum of two hundred rupees, as may be deemed a reasonable compensation for the injury done him by such extortion.

An award of compensation under this section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

Enhancement of rent of raiyat holding without, or after expiry, &c., of written engagement.

13. No under-tenant or raiyat who holds or cultivates land without a written engagement, or under a written engagement not specifying the period of such engagement, or whose engagement has expired, or has become cancelled in consequence of the sale for arrears of rent or revenue of the tenure or estate in which the land held or cultivated by him is situate, and has not been renewed, shall be liable to pay any higher rent for such land than the rent payable for the previous year, unless a written notice shall have been served on such under-tenant or raiyat, in or before the month of Chait, specifying the rent to which he will be subject for the ensuing year, and the ground on which an enhancement of rent is claimed.

Such notice shall be served by order of the Collector on the application of the person to whom the rent is payable, and shall, if practicable, be served personally on the under-tenant or raiyat.

If for any reason the notice cannot be served personally upon the under-tenant or raiyat, it shall be affixed at his usual place of residence, or if he have no such place of residence in the district in which the land is situate, the mode of service of such notice shall be by affixing it at the mál-kachahrí of such land or other conspicuous place thereon, or at the village chaurí or chaupál, or at some other conspicuous place in the village in which the land is situate.

Mode of contesting enhancement of rent.

14. Any under-tenant or raiyat on whom such notice as aforesaid has been served may contest his liability to pay the enhanced rent demanded of him, either by complaint of excessive demand of rent as hereinafter provided, or in answer to any suit preferred against him for recovery of arrears of the enhanced rent.

Dependent taluqdár, &c., holding at fixed rent without change since permanent settlement, not liable to enhancement.

15. No dependent taluqdár or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the raiyats, who, in the Provinces of Bengal, Bihár, Orissa *and Benares*, holds his taluq or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, anything in section 51, Regulation VIII. 1793 [a] or in any other law to the contrary notwithstanding.

[a] See *supra*, p. 19.

Rent of taluqdár, &c., not changed for twenty years to be *primâ facie* evidence of occupancy at that rent since permanent settlement.

16. Whenever, in any suit under this Act, it shall be proved that the rent at which a taluq or other tenure is held in the said Provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that such taluq or tenure has been held at that rent from the time of the permanent settlement, unless the contrary be shewn, or it be proved that such rent was fixed at some later period.

Rent of raiyat having right of occupancy not to be enhanced unless—

17. No raiyat having a right of occupancy shall be liable to an enhancement of the rent previously paid by him except on some one of the following grounds, namely :—

rate paid by him is below that prevailing in adjacent places :

that the rate of rent paid by such raiyat is below the prevailing rate payable by the same class of raiyats for land of a similar description and with similar advantages in the places adjacent :

value of land, &c., has increased independently of raiyat :

that the value of the produce or the productive powers of the land have been increased otherwise than by the agency or at the expense of the raiyat :

quantity of land held by raiyat is greater than he has paid rent for.

that the quantity of held held by the raiyat has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

When raiyat may claim abatement of rent.

18. Every raiyat having a right of occupancy shall be entitled to claim an abatement of the rent previously paid by him, if the area of the land has been diminished by diluvion or otherwise, or if the value of the produce or the productive powers of the land have been decreased by any cause beyond the power of the raiyat, or if the quantity of land held by the raiyat has been proved by measurement to be less than the quantity for which rent has been previously paid by him.

Relinquishment of land by raiyat after notice.

19. Any raiyat who desires to relinquish the land held or cultivated by him shall be at liberty to do so provided he gives notice of his intention in writing to the person entitled to the rent of the land or his authorized agent in or before the month of Chait of the year preceding that in which the relinquishment is to have effect.

If he fail to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land.

If the person entitled to the rent of the land or his agent refuse to receive any such notice and to sign a receipt for the same, the raiyat may make an application to the Collector, who shall thereupon cause the notice to be served on such person or his agent in the manner provided in section 13.

What to be deemed arrear of rent.

20. Any instalment of rent which is not paid on or before the day when the same is payable according to the pattá or engagement, or, if there be no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and unless otherwise provided by written agreement, shall be liable to interest at twelve per centum per annum.

Liability of raiyat to be ejected for arrear due.

21. When an arrear of rent remains due from any raiyat at the end of the Bengal year, or at the end of the month of Jeth of the Faslí or Wiláiyatí year, as the case may be, such raiyat shall be liable to be ejected from the land in respect of which the arrear is due.

Proviso.

Provided that no raiyat having a right of occupancy or holding under a pattá the term of which has not expired, shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

Liability of farmer to have lease cancelled for arrear adjudged due.

22. When an arrear of rent shall be higher rent to be due from any farmer or other leaseholder not having a permanent or transferable interest in the land, the lease of such leaseholder shall be liable to be cancelled, and the leaseholder to be ejected.

Proviso.

Provided that no such lease shall be cancelled nor the leaseholder ejected otherwise than in execution of a decree or order under the provisions of this Act.

Cognizance of suits under Act.

23. 1. All suits for the delivery of pattás or kabúliyats, or for the determination of the rates of rent at which such pattás or kabúliyats are to be delivered;

2. all suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress;

3. all complaints of excessive demand of rent, and all claims to abatement of rent;

4. all suits for arrears of rent due on account of land either khirájí or lákhiráj, or on account of any rights of pasturage, forest-rights, fisheries or the like;

5. all suits to eject any raiyat or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a raiyat may be liable to ejectment or a lease may be liable to be cancelled;

6. all suits to recover the occupancy or possession of any land, farm or tenure, from which a raiyat, farmer or tenant has been illegally ejected by the person entitled to receive rent for the same;

7. all suits arising out of the exercise of the power of distraint conferred on zamíndárs and others by sections 112 and 114 of this Act, or out of any

acts done under colour of the exercise of the said power as hereinafter particularly provided,

shall be cognizable by the Collectors of land-revenue and shall be instituted and tried under the provisions of this Act and, except in the way of appeal as provided in this Act, shall not be cognizable in any other Court or by any other officer, or in any other manner.

Suits by zamíndárs against agents for money or accounts.

24. Suits by zamíndárs and others in receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession, shall be cognizable by the Collectors, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other Court except in the way of appeal as provided in this Act.

Ejectment of cultivators, farmers, &c., by zamíndárs.

25. If any zamíndár or other person in receipt of the rent of land requires assistance to eject any cultivator not having a right of occupancy, or to eject any farmer or other tenant holding only for a limited period after the determination of his lease or tenancy, or any agent after the determination of his agency, or to enforce any attachment or ejectment expressly authorized by any Regulation or Act, he shall make application to the Collector, and the Collector shall proceed thereupon to enquire into the case and pass orders in the manner provided for suits under this Act.

Proviso.

Provided that no such application for the ejectment of a farmer on the determination of a lease shall be received, if the lease be of the kind denominated thíká zar-i-peshgí or the like, in which an advance has been made by the leaseholder, and the proprietor's right of re-entry at the end of the term is contingent on the re-payment of such advance either in money or by the usufruct of the land. In all such cases the parties must proceed by suit in the civil Court.

26.—[*Repealed by Bengal Act No. VI of 1862.*]

Registry of transfers of taluqs, &c.

27. All dependent taluqdárs and other persons possessing a permanent transferable interest in land intermediate between the zamíndár and the cultivator are required to register, in the sharishtá of the zamíndár or superior tenant to whom the rents of their taluqs or tenures are payable, all transfers of such taluqs or tenures or portions of them, by sale, gift or otherwise, as well as all successions thereto, and divisions among heirs in cases of inheritance.

And every zamíndár or superior tenant is required to admit to registry and otherwise give effect to all such transfers, when made in good faith, and all such successions and divisions.

If any zamíndár or superior tenant refuse to admit to registry or otherwise give effect to any such transfer or succession, the transferee or successor may

make application to the Collector and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and if no sufficient grounds are shewn for the refusal, shall pass an order enjoining the zamíndár or superior tenant to admit to registry and otherwise give effect to such transfer or succession.

Proviso.

Provided that no zamíndár or superior tenant shall be required to admit to registry or give effect to any division or distribution of the rent payable on account of any such tenure, nor shall any such division or distribution of rent be valid and binding without the consent in writing of the zamíndár or superior tenant.

Applications to dispossess grantees of land exempt from revenue.

28. So much of section 10, Regulation XIX. 1793,[a] section 10, Regulation XLI. 1795, section 6, Regulation XXXI. 1803, section 2¼, Regulation VIII. 1805 and section 24, Regulation XII. 1805,[b] as authorizes and requires proprietors and farmers of estates and dependent taluqs, in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the dates specified in the said sections, of their own authority to collect the rents of such land, and to dispossess the grantees of the proprietary right in the land and to re-annex it to the estate or taluq in which it may be situate, is repealed; and any proprietor or farmer who may desire to assess any such land or to dispossess any such grantee shall make application to the Collector, and such application shall be dealt with as a suit under the provisions of this Act.

Every such suit shall be instituted within the period of twelve years from the time when the title of the person claiming the right to assess the land or dispossess the grantee, or of some person claiming under him, first accrued.

If such period has already elapsed or will elapse within two years from the date of the passing of this Act, such suit may be brought at any time within two years from such date.

Suits by or against sarbaráhkárs or tahsíldárs of estates held khás.

29. All suits which under the provisions of this Act may be brought by or against zamíndárs or other persons in the receipt of the rent of land, may be brought by or against sarbaráhkárs or tahsíldárs of estates held under khás management, whether such estates are the property of Government or of individuals.

If the Collector or the sarbaráhkár or tahsíldár of any such estate in the Provinces of Bengal, Bihár and Orissa proceed against any defaulting raiyat or under-tenant of such estate under the powers vested in him by section 25, Regulation VII. 1799,[c] and not according to the provisions of this Act, such

[a] See *supra*, p. 32. [b] See *supra*, p. 75. [c] Repealed by Act No. XVI of 1874.

raiyat or under-tenant may contest the demand on account of which he is so proceeded against by suit in the civil Court.

Commencement of—suits generally;

30. Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action.

suits for grant of pattás, &c.;

31. Suits for the delivery of pattás or kabúliyats and for the determination of the rates of rent at which such pattás or kabúliyats are to be delivered, may be instituted at any time during the tenancy.

suits for arrears of rent.

32. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal year, or from the last day of the month of Jeṭh of the Faslí or Wiláiyatí year in which the arrear claimed shall have become due.

For arrears of rent due at the passing of this Act, suit shall be brought within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the civil Court, whichever may first expire.

Proviso.

Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent having been enhanced after issue of notice under section 13, and the enhancement not having been confirmed by any competent Court, the suit shall be instituted within three months from the end of the Bengal year or of the month of Jeṭh of the Faslí or Wiláiyatí year, on account of which such enhanced rent is claimed.

Suits against agents for money, papers or accounts.

33. Suits for the recovery of money in the hands of an agent or for the delivery of accounts or papers by an agent may be brought at any time during the agency or within one year after the determination of the agency of such agent, or, in the case of claims now existing, within one year after the passing of this Act or within the period now allowed for the institution of such suits in the civil Court, whichever may first expire.

Proviso.

Provided that, if the person having the right to sue shall by means of fraud have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case (except the case of claims now existing as aforesaid) be brought at any time exceeding three years from the termination of the agency.

Mode of instituting suits. Form of plaint or statement of claim.

34. Suits under this Act shall be instituted by presenting to the Collector a plaint or statement of claim which shall contain the name, description and place of abode of the plaintiff, the name, description and place of abode of the defendant, so far as they can be ascertained, the substance of the claim and the date of the cause of action.

Statement by whom presented.

35. The statement of claim shall be presented by the plaintiff or by an authorized agent of the plaintiff who has personal knowledge of the facts of the case, or by an agent who shall be accompanied by a person who has such knowledge.

Verification of statement.

36. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following or to the like effect:

I, *A. B.*, do declare that the above statement is true to the best of my knowledge and belief.

Punishment for false verification.

If the statement shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

37.—[*Repealed by Act No. XXXVI of 1860.*]

Documentary evidence to be produced by plaintiff.

38. If the plaintiff rely in support of his claim on any document in his possession, he shall deliver the same to the Collector at the time of presenting his statement of claim.

Unless such document be delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

Production of document required by plaintiff from defendant.

39. If the plaintiff require the production of any document in the possession or power of the defendant, he may at the time of presenting his statement of claim deliver to the Collector a description of the document in order that the defendant may be required to produce the same.

40.—[*Repealed by Bengal Act No. VI of 1862.*]

Plaint in suit for ejectment of raiyat, &c., or for recovery of occupancy or possession of land, &c.

41. If the suit be for the ejectment of a raiyat, farmer or tenant from any land, farm or tenure, or for the recovery of the occupancy or possession of any land, farm or tenure, the statement shall describe (as circumstances may require) the extent, situation and designation of the same; and, if necessary for the identification of the land, shall set forth the boundaries of such land.

Statement may be returned or allowed to be amended.

42. If the statement of claim do not contain the several particulars hereinbefore required to be specified therein, or be not subscribed and, verified as hereinbefore required, the Collector may return the statement to the plaintiff, or at his discretion allow it to be amended.

Issue of summons; personal attendance of defendant may be required.

43. If the statement of claim be in proper form, the Collector, except as otherwise hereinafter specially provided, shall direct the issue of a summons to the defendant, and if the plaintiff require the personal attendance of the defendant, and satisfy the Collector that such personal attendance is necessary, or the Collector of his own accord require such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be

specified in the summons, otherwise the summons shall order the defendant to appear personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

Day to be specified in summons how fixed. Defendant to produce necessary documents, and bring witnesses willing to attend without process.

44. The day to be specified in the summons shall be fixed with reference to the state of the file and the distance that the defendant may be or be supposed to be at the time from the place where the Court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence.

It shall also enjoin him to bring with him his witnesses if they are willing to attend without issue of process; and shall be in the form (A) contained in the schedule to this Act or to the like effect.

Summons how served.

45. The summons shall be served by delivering a copy of the summons to the defendant personally when practicable; or, if the summons cannot be served on the defendant personally, by affixing a copy of it to some conspicuous part of his usual place of abode, and also affixing a copy of the same in the Collector's office.

Endorsement by názir on summons.

46. If the summons be served personally, the názir shall endorse on the summons the fact of such service. If personal service be not effected, the názir shall endorse on the summons the reason of not serving it personally and how it has been served.

Execution of process in other district.

47. If the usual place of abode of the defendant be in another district, the summons, together with the cost of the service thereof, shall be sent by the public post to the Collector of such district, who shall issue the summons, and return the same after service, with the prescribed endorsement, to the officer by whom it was transmitted to him.

Cost of serving summons or warrant to be deposited.

48. The amount of the cost of serving the summons, or if a warrant be issued as provided in the next succeeding section of serving the warrant, shall in all cases be deposited in Court upon the same day or the day next following that on which the plaint or statement of claim is presented to the Collector.

If the said amount be not so deposited (except in cases in which the Collector may allow the issue of summons free of cost under the discretion reserved to him in section 146), the case shall not be brought on the file of suits; but in such case the plaintiff may present another plaint at any time within the period allowed by the rules for the limitation of actions.

Warrant of arrest in what cases issued.

49. If in any suit against an under-tenant or raiyat for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is

instituted, he shall present with his statement of claim an application for the issue of such warrant.

When such application is presented, the Collector shall examine the plaintiff or his agent on his oath or affirmation or otherwise according to the law for the time being in force in relation to the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *primâ facie* grounds for believing the claim to be well-founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Collector may issue a warrant for the arrest of the defendant.

The Collector shall fix a reasonable time for the return of the warrant which shall be in the form (B) contained in the schedule to this Act or to the like effect and the officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant (which shall be in the form (C) in the schedule or to the like effect) containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence.

But no such warrant shall be issued in a suit for arrears of rent due in respect of a dependent taluq or other transferable tenure, which, as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

Procedure after arrest of defendant.

50. If a defendant be arrested under the warrant of arrest, he shall be brought with all convenient speed before the Collector, and the Collector shall commit him to custody unless he deposit in Court such sum as may be specified in the notice.

Procedure on defendant being brought before Collector.

51. When a defendant is brought before the Collector under warrant, the Collector shall with all convenient speed proceed to try the case in the manner hereinafter provided; and if the suit cannot be at once adjudicated, the Collector may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is depending or until execution of the final decree which may be passed thereon, and may commit the defendant to the civil jail to be there detained until he shall furnish such security or deposit such sum as the Collector shall order.

Form of security-bond.

The security-bond shall be in the form (D) contained in the schedule to this Act or to the like effect.

Procedure if warrant cannot be served.

52. If the defendant cannot be arrested under the warrant, the Collector, on the application of the plaintiff, shall either postpone the case for such period as he may think proper in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall

forthwith issue a proclamation to be affixed in his own office and at the residence of the defendant fixing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant.

If the defendant shall appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding section.

Compensation for arrest applied for without reasonable cause.

53. If it shall appear to the Collector that the arrest of the defendant was applied for without reasonable cause, the Collector may in his decree award to the defendant such sum not exceeding one hundred rupees as he may deem a reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest or of his detention in jail during the pendency of the suit.

Consequence of neither party appearing on day of trial.

54. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be adjourned prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case shall be struck off with liberty to the plaintiff to bring a fresh suit unless precluded by the rules for the limitation of actions.

When Collector to pass judgment by default; and when to decree upon admission. Proviso.

55. If on any such day the defendant only appear, the Collector shall pass judgment against the plaintiff by default unless the defendant admit the cause of action, in which case the Collector shall proceed to give judgment for the plaintiff upon such admission without costs, provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

If plaintiff only appear, Collector may proceed *ex parte*.

56. If on any such day the plaintiff only appear, the Collector, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

Defendant appearing at postponed hearing, may be heard in answer.

57. If the defendant shall appear on any subsequent day to which the hearing of the suit may be postponed under the last preceding section, the Collector may upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

Revival, reversal and alteration of decrees *ex parte* or by default.

58. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance.

But in all such cases, if the party against whom judgment has been given shall appear, either in person or by agent, if a plaintiff within fifteen days from the date of the Collector's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed or at any earlier period, and shall shew good and sufficient cause for his previous non-appearance and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case.

But no decree shall be reversed or altered without previously summoning the adverse party to appear and be heard in support of it.[a]

On appearance, parties to be examined by Collector, and may cross-examine each other.

59. When both parties appear in person or by agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned for sufficient reason to be recorded by the Collector, the Collector shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other.

If either of the parties be not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

At the time of examination the defendant, if he think fit, may file a written statement of his defence.

Examination of parties, &c.

60. The examination of the parties or their agents or such other persons as aforesaid shall be upon oath or affirmation or otherwise according to the law for the time being in force relative to the examination of witnesses.

The substance of the examination shall be reduced to writing in the vernacular language of the Collector and filed with the record.

Witnesses to be examined.

61. If either of the parties shall bring forward a witness on such day, the Collector may take the evidence of such witness.

Documentary evidence to be produced by defendant.

62. If the defendant rely on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit; and unless such document be so delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

After examination, Collector may make decree

63. If after the examination required by section 59 and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced,

[a] See Bengal Act No. VI of 1862, section 18.

a decree can be properly made without further evidence, the Collector shall make his decree accordingly. if no further evidence required.

64. If on such examination as aforesaid, the agent of either party be unable to answer any material question relating to the case which the Collector is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Collector may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid shall attend in person on such day; and if the party so directed to attend shall fail to appear in person on the day appointed, the Collector may pass judgment as in case of default or make such other order as he may deem proper in the circumstances of the case. Consequence of inability of agent to answer.

65. If on such examination as aforesaid it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the Collector shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall take place on that day unless there be sufficient reason for adjourning it, which reason shall be recorded by the Collector. If necessary, Collector to record issue and to fix day for hearing further evidence.

66. The parties shall bring forward their witnesses on the day of trial, and if either party require assistance to procure the attendance of a witness on such day either to give evidence or to produce a document, he shall apply to the Collector in sufficient time before the day fixed for the trial, to enable the witness to be summoned to attend on that day; and the Collector shall issue a summons requiring such witness to attend. Parties to produce witnesses on day of trial; or Collector, on application, to summon witness.

67. The provisions of the Regulations and Acts and all other rules for the time being in force relating to the evidence of witnesses, for procuring the attendance of witness and the production of documents, and for the examination, remuneration and punishment of witnesses, whether parties to the case or not, in cases before the civil Courts of the Presidency of Bengal, shall, except so far as the same may be inconsistent with the provisions of this Act, apply to and be of equal force and effect in suits under this Act.[a] Rules regarding attendance, examination, &c., of witnesses.

68. If on the day fixed for the trial of any issue neither of the parties appear, the case shall be struck off under the conditions provided in section 54. Consequence of parties not appearing on day fixed for trial of issue.

If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party upon such proof as may be then before the Court.

69. When suits under this Act are instituted or defended by náibs, gumáshtas or other persons employed in the collection of rent or management of land in the name and on the behalf of the landholders by whom they are so Suits by and against náibs, gumáshtas, &c.

[a] See Bengal Act No. VI of 1862, section 10.

employed, all the provisions of this Act by which the personal appearance or attendance of parties to a suit is or may be required shall be applicable to such náibs, gumáshtas or other persons; and anything which by this Act is required or permitted to be done by a party in person, may be done by any such person as aforesaid.

Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same had been served on the landholder in person, and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such person.

Personal attendance when not required.

70. A plaintiff or defendant shall not be required to attend in person if of the female sex and of a rank or class which according to the custom and manners of the country would render it improper for her to appear in public.

Employment of authorized agents or mukhtárs.

71. Any party to a suit may employ an authorized agent or mukhtár to conduct the case on his behalf, but the appointment of such agent or mukhtár shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the Court.

Collector may grant time or adjourn hearing.

72. The Collector may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit and may also from time to time, in order to the production of further proof or for other sufficient reason to be recorded by the Collector, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

Collector may cause local enquiry to be made.

73. The Collector may at any stage of a case cause a local enquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of Government with the consent of the authority to whom such officer is subordinate, or may himself proceed to the spot and make such local enquiry in person.

The provisions of the law for the time being in force relative to local enquiries by Amíns or Commissioners under orders of the civil Courts shall apply to any local enquiry made by any officer under this section, and, so far as they are applicable, to enquiries made by the Collector in person.

In the latter case the Collector, after completing the enquiry, shall record on the proceedings such observations as appear to him appropriate, and the observations so recorded shall be received as evidence in the suit.

74.—[*Repealed by Bengal Act No. VI of 1862.*]

No interest on deposits.

75. No interest shall be allowed to a plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

Collector when to fix term for

76. If on the trial of a suit for the delivery of a pattá instituted by a raiyat having a right of occupancy the parties do not agree as to the term for

which the pattá is to be granted, the Collector shall fix such term as under the circumstances of the case he may think just and proper. which pattá is to be granted.

Provided that the term shall not in any case be longer than ten years, and in estates not permanently settled shall not extend beyond the period for which the proprietor of the estate has engaged with Government. Proviso.

Provided also that, if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pattá shall not extend beyond the period of the continuance of such interest.

For cultivators not having a right of occupancy, the term of pattá shall be exclusively in the discretion of the person entitled to the rent of the land.

77. When in any suit between a landholder and a raiyat or under-tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the raiyat or under-tenant is disputed, and such right is claimed by or on behalf of a third person on the ground that such third person or a person through whom he claims has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such third person shall be enquired into and the suit shall be decided according to the result of such inquiry. In suits for rent, third person claiming to be made party.

Provided always that the decision of the Collector shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in the civil Court if instituted within one year from the date of the decision. Proviso.

78. Any person desiring to eject a raiyat or to cancel a lease on account of non-payment of arrears of rent may sue for such ejectment or cancelment and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrear in a suit for such ejectment or cancelment. Suits for ejectment or cancelment of lease.

In all cases of suits for the ejectment of a raiyat or the cancelment of a lease, the decree shall specify the amount of the arrear, and if such amount together with interest and costs of suit be paid into Court within fifteen days from the date of the decree, execution shall be stayed.

79.—[*Repealed by Bengal Act No. VI of 1862.*]

80. When a decree is given for the delivery of a pattá, if the person required by the decree to grant such pattá refuse or delay to grant the same, the Collector may grant a pattá in conformity with the terms of the decree under his own hand and seal, and such pattá shall be of the same force and effect as if granted by the person aforesaid. If person required by decree refuse to grant pattá. Collector may do so.

81. When a decree is given for the delivery of a kabúliyat, if the person required by the decree to execute such kabúliyat shall refuse to execute the Refusal to execute kabúliyat

as required by decree.

same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the hand and seal of the Collector shall be of the same force and effect as a kabúliyat executed by the said person.

Mode of executing decree for ejectment or re-instatement of raiyat.

82. If the decree be for the ejectment of any raiyat from land occupied by him, or for the re-instatement of any raiyat in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree to such possession or occupancy.

Punishment for obstructing execution.

If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Magistrate, on the application of the Collector, shall give effect to the same.

Execution of decree for cancelment of lease or ejectment or re-instatement of farmer or tenant.

83. If the decree be for the cancelment of any lease or the ejectment of any farmer or other person (not being an actual cultivator) or for the re-instatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by beat of drum or in such other manner as may be customary, and affixing the same in some conspicuous place within or adjacent to the farm or tenure.

When judgment-debtor may be detained or imprisoned without issue of process of execution.

84. If the decree be for arrears of rent or for money, papers or accounts, and the defendant have been committed to jail or appear pursuant to the conditions of any security-bond given under section 51, the Collector may order that he be detained in or committed to the civil jail, unless he immediately pay into Court the amount of the decree with costs, or otherwise comply with the terms of the decree.

Liability of surety on failure to deliver judgment-debtor into custody.

85. If the judgment-debtor have given security for his appearance and be not present when judgment is pronounced, and the surety shall fail to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the debtor had been passed against the surety.

If the decree be for the delivery of papers or accounts, and the defendant be not present when judgment is pronounced and the surety shall fail to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

86.—[*Repealed by Bengal Act No. VI of 1862.*]

Application for execution against moveable property.

87. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor, but if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects to the amount of the judgment and costs.

In either case the property to be seized shall be pointed out to the officer entrusted with the execution of the process by the creditor or his agent.

Duration of warrant.

88. Every warrant of execution shall bear date on the day on which it is signed by the Collector and shall continue in force for such period as the Collector may direct, not being more than sixty days calculated from such date.

Second and successive warrants.

89. Second and successive warrants of execution may be issued by order of the Collector on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

After one year execution not to issue without notice.

90. Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year shall have elapsed from the date of the judgment or from the date of the last previous application for execution.

Notice of execution against representative.

91. Execution on a judgment shall not issue against the heir or other representative of a deceased party without notice to such heir or other representative to appear and be heard.

Execution after three years from date of judgment.

92. No process of execution of any description whatsoever shall be issued on a judgment under this Act after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred rupees, in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the civil Courts.

Warrant against person.

93. If a warrant issue for taking in execution the body of any person, the officer charged with the execution of the warrant shall bring him with all convenient speed before the Collector.

If such person shall not then deposit in Court the full amount specified in the warrant or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Collector that he has no present means of paying the debt, the Collector shall send him to the civil jail, there to remain for such time as shall be directed by a warrant addressed to the keeper of the jail, unless he shall in the meantime pay the full amount for the payment of which he is liable under the decree.

Limit of imprisonment.

Provided that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed three calendar months when the amount decreed exclusive of costs does not exceed fifty rupees, or six calendar months when such amount does not exceed five hundred rupees, or two years in any other case.

If arrest be for non-delivery of accounts.

If the decree against any person arrested under a warrant be for the delivery of papers or accounts and the papers or accounts shall not be delivered by him when he is brought before the Collector, such person may be committed to the civil jail, there to remain for such time not exceeding six calendar months as the Collector shall direct, unless he shall in the meantime deliver the papers or accounts according to the terms of the decree.

No second imprisonment under same judgment.

94. Any person once discharged from jail shall not be imprisoned a second time under the same judgment.

If the amount due under the decree do not exceed one hundred rupees, the Collector may declare such discharged person absolved from further liability under that decree.

In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt any property belonging to such person from attachment in execution of the same.

Deposit of diet-money.

95. Any person applying for a warrant of arrest under section 49 or suing out process of execution against the body of any person, shall deposit in Court, at the time of issue of the warrant, diet-money for one month of thirty days at such rate as the Collector may direct, not exceeding two annas per diem, unless the Collector for any special reason direct that deposit be made at a higher rate, which shall not exceed four annas per diem.

Payment of diet-money in advance during imprisonment.

96. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, in failure of which the party confined shall be discharged.

Diet-money to be costs in suit.

97. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the person who deposited the same.

List of property taken in execution and proclamation of sale.

98. In executing a writ of execution against the moveable property of a debtor liable under this Act, the officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor.

A copy of the said proclamation and list shall be transmitted to the Collector and shall be affixed in his office.

Custody and sale of moveable property taken in execution.

99. No sale of any moveable property taken in execution shall be made until after the end of ten days next following the day on which such property may have been so taken.

Until such sale the property shall be deposited in some fit place or it may remain in custody of some fit person approved by the officer executing the writ.

The provisions of sections 129 to 133, so far as the same are applicable, shall be applied to sales under this section.

100. If before the day fixed for the sale a third party appear before the Collector and claim a right or interest in any of the moveable property taken in execution, the Collector shall examine such party or his agent on oath or affirmation or otherwise, according to the law for the time being in force relative to the examination of witnesses, and if he see sufficient reason for so doing may stay the sale of such property.

Collector may stay sale of moveable property seized if third party claim interest therein.

101. The Collector shall adjudicate upon such claim and make such order between the claimant and the plaintiff and defendant in the original suit as shall seem fit.

Collector to adjudicate such claims.

In trying such claim the Collector shall be guided by the rules contained in this Act so far as they may be applicable.

102. If the claimant shall fail to establish his right to the property taken in execution, the Collector at the time of disposing of the case may award to the judgment-creditor against such claimant as part of the costs such sum as he may consider sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

Claimant failing to establish right liable to compensate judgment-creditor.

103. No appeal shall lie from any order passed by the Collector under the two last preceding sections. But the party against whom the same may be given shall be at liberty to bring a suit in the civil Court to establish his right at any time within one year from the date of the order; provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but shall be for damages against the judgment-creditor by whom the property was brought to sale.

No appeal from order under sections 101, 102.

Proviso.

104. No irregularity in publishing or conducting a sale of moveable property under an execution shall vitiate such sale, but this rule shall not be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the civil Court; provided such action be brought within one year from the date of sale.

Sale not vitiated by irregularity in publishing or conducting.

Proviso.

105. If the decree be for an arrear of rent due in respect of an under-tenure, which by the title-deeds or the custom of the country is transferable by sale, the judgment-creditor may make application for the sale of the tenure, and the tenure may thereupon be brought to sale in execution of the decree, according to the rules for the sale of under-tenures for the recovery of arrears of rent due in respect thereof contained in any law for the time being in force.[a]

Sale of transferable tenures in execution of decrees for arrears of rent.

[a] See Bengal Act No. VIII of 1865, s. 4.

But no such application shall be received when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor, so long as such warrant remains in force.

If after sale of an under-tenure any portion of the amount decreed remains due, process may be applied for against any other property, moveable or immoveable, belonging to the debtor, and any such immoveable property may be brought to sale in the manner provided in section 110 of this Act.

If third party claim to be lawful possessor of tenure, Collector to stay sale and to enquire and adjudicate.

106. If before the day fixed for the sale of any such under-tenure as aforesaid in execution of a decree for arrears of rent due in respect of such under-tenure, a third party appear before the Collector and allege that such third party and not the person against whom the decree has been obtained is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained, the Collector shall examine such party in the manner provided in section 100 for the examination of third parties, and if he see sufficient reason for so doing, and such party shall deposit in Court the amount of the decree or give sufficient security for the same, the Collector shall stay the sale and proceed to enquire into and adjudicate upon the claim.

Proviso.

Provided that no transfer of an under-tenure which by the provisions of this Act or any other law for the time being in force is required to be registered in the sharishtá of the zamíndár or superior tenant shall be recognized unless it have been so registered, or unless sufficient cause for non-registration be shewn to the satisfaction of the Collector.

Mode of adjudicating claims.

107. In trying such claim the Collector shall be guided by the rules contained in this Act, so far as the same may be applicable, and the judgment passed by the Collector on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the civil Court to establish his right at any time within one year from the date of the judgment.

Execution of decrees given in favour of sharers in undivided estates or tenures.

108. If a decree is given in favour of a sharer in a joint undivided estate, dependent taluq or other similar tenure for money due to him on account of his share of the rent of an under-tenure situate in such undivided estate or taluq or tenure, application for the sale of such under-tenure shall not be received unless execution shall have been first taken out against any moveable property which the judgment-debtor may possess within the district in which the suit was instituted and the sale of such property, if any, shall have proved insufficient to satisfy the judgment.

In such case such under-tenure, if of the nature described in section 105, may be brought to sale in execution of the decree in the same manner as any other immoveable property may be sold in execution of a decree for money under the provisions of the two next following sections.

If execution against immoveable

109. In the execution of any decree for the payment of money under this Act not being money due as arrears of rent of a saleable under-tenure, if satis-

faction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the district in which the suit was instituted, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor.

property when money-decree cannot be otherwise satisfied.

110. If the immoveable property against which execution is applied for be a house or other building, process shall be issued in the same manner as for the attachment and sale of moveable property, and the provisions of sections 98 and 99 shall be applicable to the execution of such process.

Execution against house or building.

If the property be a saleable under-tenure, it shall be sold under the provisions of the law for the time being in force applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof.

Against saleable under-tenure.

If the property be an estate or a share of an estate, it shall be sold under the rules in force for the sale of estates for the recovery of demands recoverable by the same process as arrears of land-revenue.

If it be an estate or a share of an estate.

111. If, before the day fixed for the sale of any immoveable property as aforesaid, objection shall be offered to the sale on the ground of such property not belonging to the judgment-debtor, and consequently not being liable to be sold in execution of a decree against him, the Collector shall examine the party making the objection in the manner prescribed in section 100 for the examination of third parties, and if satisfied that there is sufficient ground for so doing, shall stay the sale and proceed to enquire into and adjudicate upon the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in section 107.

Consequence of objection offered before sale of immoveable property.

112. The produce of the land is held to be hypothecated for the rent payable in respect thereof; and when an arrear of rent as defined in section 20 of this Act is due from any cultivator of land, the zamíndár, lákhirájdár, farmer, dependent taluqdár, under-farmer or other person entitled to receive rent immediately from such cultivator, instead of bringing suit for the arrear as hereinbefore provided, may recover the same by distraint and sale of the produce of the land on account of which the arrear is due under the following rules.

Produce of land held hypothecated for rent. Arrears of rent recoverable by distraint under following rules.

Provided always that, when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given shall not be liable to distraint.

Cultivators who have given security exempt from distraint.

Provided also that no sharer in a joint estate, dependent taluq or other tenure in which a division of lands has not been made amongst the sharers, shall exercise the power of distraint, otherwise than through a manager authorized to collect the rents of the whole estate, taluq or tenure on behalf of all the sharers in the same.

Proviso.

Distraint when barred.

113. Distraint shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless a written engagement for the payment of such excess has been executed by the cultivator.

Power of distraint of managers under Court of Wards, &c.

114. The power of distraint vested by section 112 in zamíndárs and other persons entitled to receive rent from cultivators of land, may be exercised by managers under the Court of Wards, sarbaráhkárs and tahsíldárs of estates held under khás management, and other persons lawfully entrusted with the charge of landed property; and also by the náibs, gumáshtas and other agents employed by any such persons as aforesaid in the collection of rent if expressly authorized by power-of-attorney in that behalf.

Proviso.

Provided that, if any illegal act is committed by any such naíb, gumáshtá or other agent under colour of the exercise of the said power, the person employing such agent shall be liable, as well as the agent, for any damages accruing by reason of such act.

Standing crops and crops gathered but not stored liable to distraint.

115. Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered, and deposited in any threshing floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with the powers of distraint under the provisions of this Act.

But no such crops or products other than the produce of the land in respect of which an arrear of rent is due or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distraint under this Act.

Defaulter to be served with written demand, &c., before or at time of distraint.

116. Before or at the time when distraint is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

The demand and account shall, if practicable, be served personally on the defaulter, or if he abscond or conceal himself so that they cannot be so served, shall be affixed at his usual place of residence.

Distress proportionate to arrear. List of property served on owner.

117. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value proportionate to the amount of the arrear with costs of the distress; and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or if he be absent affix it at his usual place of residence.

Standing crops, &c., when attach-

118. Standing crops and other ungathered products may, notwithstanding the distraint, be reaped and gathered by the cultivator, and may be stored in

such granaries or other places as are commonly used by him for the purpose. ed, to be reaped and stored by cultivator, or, if he neglect to do so, by distrainer.

If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose.

Crops or products which from their nature do not admit of being stored, may be sold before they are cut or gathered, under the rules hereinafter provided; but in such case the distraint shall be made at least twenty days before the time when the crops or products or any part of the same would be fit for cutting or gathering.

119. If a distrainer shall be opposed or shall apprehend resistance, and shall desire to obtain the assistance of a public officer, he may apply to the Collector, and the Collector may, if he thinks necessary, depute an officer to support the distrainer in making the distraint. Distrainer may apply for aid to Collector in case of resistance.

120. When any person empowered to distrain property under section 112 or section 114 shall employ a servant or other person to make the distress, he shall give to such servant or person a written authority for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority. Servants employed to distrain to be furnished with written authority.

121. If at any time after property has been distrained, and prior to the day fixed for its being put up to sale as hereinafter provided, the owner of the property shall tender payment of the arrear demanded of him and of the expenses of the distress, the distrainer shall receive the same and shall forthwith withdraw the distress. Distress withdrawn if defaulter tender payment of arrear and expenses prior to sale.

122. Within five days from the time of the storing of any distrained crops or products, or if the crops or products do not, from their nature, admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the civil Court Amín or other officer authorized to sell property in satisfaction of decrees of the civil Court within the circle in which the distrained property is situate, or to such other public officer as the Local Government shall appoint for the purpose. Application for sale.

123. The application shall be in writing and shall contain an inventory or description of the property distrained, the name of the defaulter and his place of residence, the amount due and the date of the distress, and the place in which the distrained property is deposited. Form of application.

Deposit of cost of notice to defaulter.

Together with the application, the distrainer shall deliver to the civil Court Amín or other officer the amount necessary for the service of a notice upon the defaulter as hereinafter provided.

Procedure of Amín on receipt of application.

124. Immediately on receipt of the application the civil Court Amín or other officer shall transmit a copy of it to the Collector; and shall serve a notice (which shall be in the form (G) contained in the schedule to this Act or to the like effect) on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to contest the demand before the Collector within the period of fifteen days from the receipt of the notice.

He shall at the same time send to the Collector for the purpose of being put up in his office, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain a description of the property, the demand for which it is to be sold and the place where the sale is to be held.

Amín to suspend sale on receipt of Collector's certificate of institution of suit.

125. If a suit shall be instituted before the Collector in pursuance of the aforesaid notice, the Collector shall transmit to the civil Court Amín or other officer, or if so requested shall deliver to the owner of the distrained property, a certificate of the institution of such suit; and on such certificate being received by or presented to the Amín or other officer, he shall suspend proceedings in regard to the sale of the distrained property.

Suit to contest distrainer's demand before notice of sale.

126. A person whose property has been distrained in the manner hereinbefore provided may institute a suit to contest the demand of the distrainer immediately after the distraint of his property, and before the issue of notice of sale.

When such suit is instituted, the Collector shall proceed in the manner prescribed in the last preceding section.

If thereafter application for the sale of the property is made to the civil Court Amín or other officer, he shall transmit a copy of the application to the Collector and suspend further proceedings pending the decision of the case.

Distress withdrawn on receipt of Collector's certificate of execution of bond to pay amount due.

127. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid or at any subsequent period, execute a bond with security binding himself to pay whatever sum may be adjudged to be due from him with interest and costs of suit, and when such bond is executed, the Collector shall give to the owner of the property a certificate to that effect, or if so requested shall serve the distrainer with notice of the same;

and upon such certificate being presented to the distrainer by the owner of the property or served on him by order of the Collector, the property shall be released from distraint.

On expiration of period fixed in proclamation of sale, if institution of suit to contest demand not certified, sale may proceed.

128. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the civil Court Amín or other officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as shall be allowed by him, be discharged in full, proceed to sell the property or such part of it as may be necessary in the manner following.

Place and manner of sale of distrained property.

129. The sale shall be held at the place where the distrained property is deposited, or at the nearest ganj, bázár, hát or other place of public resort, if the civil Court Amín or other officer should be of opinion that it is likely to sell there to better advantage.

The property shall be sold by public auction in one or more lots as the officer holding the sale may think advisable; and if the demand with the costs of distress and sale be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

If fair price not offered, sale may be postponed, and shall be then completed whatever price offered.

130. If on the property being put up for sale a fair price in the estimation of the officer holding the sale be not offered for it, and the owner of the property or some person authorized to act on his behalf apply to have the sale postponed until the next day, or the next market-day if a market be held at the place of sale, the sale shall be postponed until such day and shall be then completed at whatever price may be offered for the property.

Payment of purchase-money.

131. The price of every lot shall be paid for in ready money at the time of sale or as soon after as the officer holding the sale shall think necessary; and in default of such payment the property shall be put up again and sold.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Disposal of proceeds of sale.

132. From the proceeds of the sale of distrained property the officer holding the sale shall make a deduction at the rate of one anna in the rupee on account of the costs of the sale, and shall transmit the amount to the Collector in order that it may be credited to Government.

He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress and of the issue of the notice and proclamation of sale prescribed in section 124 to such amount as, after examination of the statement of expenses furnished by the distrainer, he shall think proper to allow.

The remainder shall be applied to the discharge of the arrear for which the distraint was made, with interest thereon up to the day of sale, and if there be any overplus, it shall be delivered to the person whose property shall have been sold.

Officers holding sales prohibited from purchasing.

133. Officers holding sales of property under this Act and all persons employed by or subordinate to such officers are prohibited from purchasing either directly or indirectly any property sold by such officers.

Irregularities to be reported to Collector.

Officer not to sell, if he find that defaulter has not received notice.

134. Civil Court Amíns and other officers as aforesaid are required to bring to the notice of Collectors any material irregularities committed by distrainers under colour of this Act; and if in any case, on proceeding to hold a sale of property, the civil Court Amín or other officer shall find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Collector, and the Collector shall direct the issue of another notice and proclamation of sale under section 124 or pass such other order as he may think proper.

Recovery of expenses if Amín proceeds to place of sale and no sale takes place.

135. When a civil Court Amín or other officer has proceeded to any place for the purpose of holding a sale and no sale takes place either for the reason stated in the last preceding section or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainer to the civil Court Amín or other officer, the charge of one anna in the rupee on account of expenses shall be leviable and shall be calculated on the estimated value of the distrained property.

If the demand of the distrainer be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by the owner of the property and may be recovered by the sale of such portion thereof as may be necessary.

In every other case it shall be paid by the distrainer and may be recovered by attachment and sale of the property of the distrainer under the warrant of the Collector.

Provided always that in no case shall a larger amount than ten rupees be recoverable under this section.

Proceedings of Amíns, &c., subject to revision and orders of Collectors.

136. All proceedings under this Act of the civil Court Amíns and other officers as aforesaid shall be subject to the revision and orders of the Collectors, and the Collectors, with the sanction of the Boards of Revenue, may require the submission of such periodical reports and statements of business performed by the civil Court Amíns and other officers as may be thought necessary.

Second proclamation of sale.

137. When a suit has been instituted to contest the demand of a distrainer and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Collector shall issue an order to the civil Court Amín or other officer authorizing the sale of the property, and

on the application of the distrainer, which shall be made within five days from the receipt of such order by the civil Court Amín or other officer, such Amín or officer shall publish a second proclamation in the manner prescribed in section 124, fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the proclamation; and unless the amount adjudged to be due with the costs of distress be paid intermediately, shall proceed to sell the property in the manner hereinbefore provided.

Procedure after institution of suit to contest demand.

138. In all suits instituted to contest the demand of a distrainer, the distrainer shall be required to prove the arrear in the same manner as if he had himself brought suit for the amount under the foregoing provisions of this Act.

If the demand or any part thereof is found to be due, the Collector shall make a decree for the amount in favour of the distrainer, and the amount may be recovered by sale of the property as provided in the last preceding section if the distress has not been withdrawn, and if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter, or if the property have been released on security, by execution of the decree against the person and property of the defaulter and of his surety.

If, on the other hand, the distraint is adjudged to be vexatious or groundless, the Collector, besides directing the release of the distrained property, may award such damages in favour of the plaintiff as the circumstances of the case shall seem to require.

Owner of property distrained for arrears alleged to be due from another, may institute suit against distrainer, &c.

139. If any person shall claim, as his own, property which has been distrained for arrears of rent alleged to be due from any other person, such person may institute a suit against the distrainer and such other person to try the right to the property in the same manner and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand.

When any such suit is instituted, the property may be released upon security being given for the value of the same.

If the claim is dismissed, the Collector shall make an order for the sale of the property or the recovery of the value thereof, as the case may be, for the benefit of the distrainer.

If the claim is upheld, the Collector shall decree the release of the distrained property with costs, and such damages (if any) as the circumstances of the case may seem to require.

Proviso.

Provided always that no claim to any produce of land liable to distraint under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, whether such claim be in respect of a previous sale, mortgage or otherwise, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any civil Court prevail against such prior claim.

Procedure if right to distrain be disputed.

140. If, in any case in which property has been distrained for an arrear of rent and a suit has been instituted to contest the demand, the right to distrain for such arrear is claimed by or on behalf of any person other than the distrainer on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such other person before and up to the time of the commencement of the suit shall be enquired into, and the suit shall be decided according to the result of such enquiry.

Provided always that the decision of the Collector shall not affect the right of either party who may have a legal title to the rent of the land, to establish his title by suit in the civil Court if instituted within one year from the date of the decision.

Persons prevented from suing in time to save property from sale, may sue for damages.

141. If any person whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing suit to contest the demand, or to try the right to the property, as the case may be, within the period allowed by sections 124 and 139, and his property is in consequence brought to sale, he may nevertheless institute a suit under this Act to recover damages for the illegal distress and sale of his property.

Also persons aggrieved by illegal act of distrainer.

142. If any person empowered to distrain property or employed for the purpose under a written authority by a person so empowered, shall distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act, or if any distrained property shall be lost, damaged or destroyed by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or if the distraint shall not be immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit under this Act to recover damages for any injury which he may have thereby sustained.

Unlawful distraint.

143. If any person not empowered to distrain property under sections 112 and 114 of this Act, nor employed for the purpose under a written authority by a person so empowered, shall distrain or sell or cause to be sold any property under colour of this Act, the owner of the property may institute a suit

under this Act to recover damages from such person for any injury which he may have sustained from the distraint or sale.

The said person shall be held to have committed criminal trespass, and shall be subject to the penalties for that offence in addition to any damages which may be awarded against him in such suit.

Time for commencing suits for damages.

144. Provided always that any suit which may be instituted under any of the last three sections shall be commenced within three months from the date of the occurrence of the cause of action.

Resistance of distraint.

145. If any person shall resist a distraint of property duly made under this Act, or shall forcibly or clandestinely remove any distrained property, the Collector, upon complaint being made within fifteen days from the date of such resistance or removal, shall cause the person accused to be arrested, and if the offence be proved and the offender be the owner of the property, shall order him to be imprisoned in the civil jail for six months, or until the whole arrear due to the distrainer with all expenses and costs shall sooner be paid or levied by distress and sale of the property of the offender under warrant of the Collector.

If the person convicted of the offence be any other than the owner of the property, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred rupees, or, in default of payment thereof, to imprisonment for a period not exceeding two months.[a]

Service of process.

146. Every process issued by a Collector under this Act shall be under the seal and signature of the Collector, and shall be served or executed by the názir or by such other officer as the Collector may direct at the cost of the party at whose instance it issued.

The amount of such cost, and, in the case of summons to a witness, any sum required for the travelling expenses of such witness, shall be deposited in Court before the process is issued.

Provided that, if in any case the Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

Resistance of process.

147. Any resistance or opposition to the lawful process of a Collector under this Act may be punished by the Collector according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of civil justice.

When in any such case the offender is not present in Court, the Collector may summon him to answer to the charge, and if after due service of the summons he fail to attend, may issue a warrant for his apprehension.

[a] See Bengal Act No. VI of 1862, section 18.

Orders passed by Collectors under this section shall not be deemed to be orders relating to the trial of suits or to the execution of decrees within the meaning of section 151.

Place of holding Court.

148. It shall be competent to the Collector to hold a Court for hearing and determining suits under this Act in any place within the limits of his district or local jurisdiction, provided that every hearing and decision shall be in open Court, and that the parties to the suit or their authorized agents shall have had due notice to attend at such place.

Proviso.

149.—[*Repealed by Act No. XX of 1865.*]

150.—[*Repealed by Bengal Act No. VI of 1862.*]

Control of Collectors and Deputy Collectors.

151. In the performance of their duties under this Act the Collectors and Deputy Collectors shall be subject to the general direction and control of the Commissioners and the Boards of Revenue; and the Deputy Collectors shall be subject to the direction and control of the Collectors to whom they are subordinate.

No appeal from orders of Collectors and Deputy Collectors in certain cases.

All orders passed by a Collector under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof, or orders passed after decree and relating to the execution thereof, shall be appealable to the Commissioner; and all such orders passed by a Deputy Collector shall be appealable to the Collector; but no judgment of a Collector or Deputy Collector in any suit, and no order of a Collector or Deputy Collector passed in any suit and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

Time for presenting appeals from orders.

152. Every appeal against the order of a Collector shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Collector within fifteen days, from the date of the order.

Orders passed in appeal by a Commissioner or a Collector shall not be open to any further appeal, but the Board of Revenue or the Commissioner may call for any case and pass such orders thereon as they may think proper.

When appeal allowed from judgment of Collector for money below 100 rupees.

153. In suits under clauses 2, 4 and 7 of section 23 and under section 24 of this Act, tried and decided by a Collector, if the amount sued for or the value of the property claimed does not exceed one hundred rupees, the judgment of the Collector shall be final and not open to revision or appeal except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a raiyat or tenant, or any question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in sections 160 and 161 of this Act.

Re-hearing in suits not open to appeal.

154. In suits in which the judgment of the Collector is final as provided in the last preceding section, the Collector may, upon the application of either party, if preferred within thirty days from the date of the decision, order the re-hearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case which the applicant had no knowledge of, or could not produce, at the time of trial.

Appeal from decision of Deputy Collector.

155. When any such suit as aforesaid, in which if tried and decided by a Collector the judgment of the Collector would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Collector.

Petition of appeal.

156. The petition of appeal shall be written and shall be presented to the Collector within fifteen days from the date of the decree, provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

Procedure in appeal.

157. The Collector shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent in the manner hereinbefore prescribed for the service of summons.

If, on the day fixed for hearing the appeal or any other day to which the hearing may be adjourned, the appellant shall not appear in person or by an agent, the appeal shall be dismissed for default.

If the appellant shall appear and the respondent shall not appear in person or by an agent, the appeal shall be heard *ex parte*.

Re-admission of appeal.

158. If an appeal be dismissed for default of prosecution, the appellant may, within fifteen days from the date of the dismissal, apply to the Collector for the re-admission of the appeal, and if it shall be proved to the satisfaction of the Collector that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Collector may re-admit the appeal.

Judgment in appeal.

159. After hearing the appeal the Collector shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Collector shall be final.

In what suits appeal to lie to Zila Judge.

160. In all suits other than those in which, when tried and decided by a Collector, the judgment of the Collector is declared to be final, or when tried and decided by a Deputy Collector an appeal is allowed to the Collector, an appeal from the judgment of the Collector or Deputy Collector shall lie to the Zila Judge; unless the amount or value in dispute exceed five thousand rupees, in which case the appeal shall lie to the Sadr Court.[a]

To Sadr Court.

[a] See Bengal Act No. VI of 1862, section 10.

Presentation and hearing of appeals.

161. The petition of appeal shall be written; and the rules in force in regard to the time within which appeals from the decisions of such courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the Zila Judge or Sadr Court under this Act.[a]

162.—[*Repealed by Bengal Act No. VI of 1862.*]

No jurisdiction in Collector as to lands beyond district.

163. *Except as provided in the last preceding section,* no Collector shall exercise any jurisdiction under this Act in respect to any lands situate beyond the limits of the district to which he is appointed, by reason of such lands forming part of an estate the revenue of which is paid into the treasury of the said district.

Deputy Collector when not to exercise judicial powers.

164. No Deputy Collector appointed under Regulation IX. 1833 [b] of the Bengal Code shall exercise any judicial powers or other jurisdiction under this Act if entrusted with any Police-functions.

Powers to be exercised by Assistants to Collectors.

165. Assistants to Collectors shall not exercise any powers under this Act unless invested by Government with the powers of Deputy Collectors, in which case they may exercise the powers hereby assigned to Deputy Collectors.

Saving of rights of proprietors as to tenures under Reg. VIII. 1819.

166. Nothing contained in this Act shall be held to affect the right vested in proprietors of land under direct engagements with Government, of bringing to sale for arrears of rent patní-taluqs and other similar tenures under the provisions of Regulation VIII. 1819.[c]

167.—[*Repealed by Act No. XIV of 1870.*]

"Civil Jail."

168. The words "Civil Jail" as used in this Act shall include the civil jail of the zila and any place appointed by the Executive Government for the confinement of prisoners by any Court constituted under this Act:

"Názir."

The word "Názir" shall include any officer of a Court authorized to serve or execute its process:

Number,

Unless there be something in the subject or context repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular

Gender.

number, and words importing the masculine gender shall include females.

[a] See Bengal Act No. VI of 1862, section 10. [b] See *supra*, p. 270. [c] See *supra*, p. 158.

SCHEDULE.

FORM A (*see section 44*).

FORM OF SUMMONS TO DEFENDANT.

No. (of suit) dated

In the Court of

A. B., Plaintiff.

[*Name, description and address of plaintiff.*]

C. D., Defendant.

[*Name, description and address of defendant.*]

Whereas the said *A. B.* has brought a claim against you in this Court for [*here specify particulars of claim as given in the statement*], you are hereby required to appear in person in this Court on the day of [*if not specially required to appear in person, state,* "in person or by an agent who has personal knowledge of the subject or who shall be accompanied by a person who has such knowledge"] to answer the above-named plaintiff, and you will bring with you (*or* send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

FORM B (*see section 49*).

FORM OF WARRANT OF ARREST.

No. (of suit) dated

In the Court of

A. B., Plaintiff.

C. D., Defendant.

To the Názir of the Court of the Collector of

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 185

FORM C (*see section 49*).

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

A B, Plaintiff.

[*Name, description and address of plaintiff.*]

C D, Defendant.

[*Name, description and address of defendant.*]

Whereas the said *A B* has brought a claim against you in this Court for [*here specify particulars of claim as given in the statement*] and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

FORM D (*see section 51*).

FORM OF SECURITY-BOND FOR APPEARANCE OF DEFENDANT.

Whereas *A B*, plaintiff, has instituted a suit in the Court of the Collector of against *C D*, defendant, and the said *C D* has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree, I, *E F*, hereby declare myself surety for the said *C D's* appearance as aforesaid, and in case of his making default in such appearance, I engage to pay any sum for the payment of which the said *C D* may be liable under the decree. *If the suit be for the delivery of papers or accounts specify some sum to be fixed by the Collector.*

FORM E (*see section 86*).

WRIT OF EXECUTION AGAINST THE PERSON.

A B, Plaintiff.

C D, Defendant.

To the Názir of the Court of the Collector of

Whereas the said *C D* was directed by a decree of this Court, under date the day of 185 , to pay to *A B* the sum of and for costs of suit, amounting to , and whereas

the said *C D* has omitted to pay the same, you are hereby commanded to apprehend the said *C D*, and to bring him with all convenient speed before this Court to be dealt with according to law.

FORM F (*see section 86*).

WRIT OF EXECUTION AGAINST THE EFFECTS.

A B, Plaintiff.
C D, Defendant.

To the Názir of the Court of the Collector of

Whereas *C D* was directed by a decree of this Court under date the day of 185 , to pay to *A B* the sum of and for costs of suit, amounting to , and whereas the said *C D* has omitted to pay the same, you are hereby commanded to levy the said sum of , and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said *C D* as [is described in the list annexed, and] [*if no list is furnished, these words to be omitted*] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said *C D*, on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

FORM G (*see section 124*).

FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.

Office of Commissioner for sale of distrained property.
A B, Distrainer.

[*Name, description and address of the owner of the property.*]

Whereas the said *A B* has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said *A B*, or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 185 .

SALES OF LAND FOR ARREARS OF REVENUE ACT.

ARRANGEMENT OF SECTIONS.

PREAMBLE.

SECTIONS.

1. [*Repealed.*]
2. Arrear of revenue defined.
3. Latest day of payment.
4. In Silhat, personal property of defaulters may in first instance be distrained and sold.
5. Proviso as to certain descriptions of arrears.
6. Issue of notifications of sale.
 Tender after latest day of payment not to stop sale.
7. Notice to raiyats, &c.
8. Claims of defaulters against Government not to invalidate sale.
9. Deposits receivable from persons not proprietors.
10. Separation of shares held in common, by opening separate account.
11. Separation of shares consisting of specific portions of land, by opening separate account.
12. If objection be made, parties to be referred to civil Court.
13. Sale of separate shares.
14. Entire estate may be sold under certain conditions.
15. Deposit for protection of estate from sale.
16. Withdrawal of deposit.
17. Estates under Court of Wards or attachment.
18. Power to exempt from sale.
 Proviso.
19. Sales where to be made.
20. Adjournment of sales.
21. Order of selling.
22. Deposit on account of purchase-money.
23. Full payment of purchase-money.
24. Re-sale.
25. [*Repealed.*]
26. Annulment of sale in special cases.
27. Sales when final.
28. Certificate of sales.
29. Delivery of possession.
30. Liability of purchaser.
31. Application of purchase-money.
32. Notification of annulment of sale.
33. Jurisdiction of civil Courts in suits to annul sales.
 Proviso.
34. Effects of annulment of sales by decree of Court.
35. If sale annulled purchase-money to be refunded.

SECTIONS.

36. Dismissal of suit brought to oust purchaser on ground that purchase was made for another.
37. Rights of purchaser of permanently settled estate sold for its own arrears.
Proviso.
38. Registration of taluqdárí tenures created after settlement and held for terms of years.
39. Common and special registry.
40. Application for registry.
41. Procedure on application for common registry.
42. Procedure on application for special registry.
43. Registration of leases of certain lands.
44. Registration of old tenures.
Proviso.
45. [*Repealed.*]
46. Expenses of measurement, survey or local enquiry.
47. Civil Court not competent to order entry in special register.
48. Suit for cancelment of registry of tenure or farm.
49. Proceedings of Revenue-authorities in registration of tenures, &c.
50. Effect of entry in special register.
51. Protection of taluqdárí tenures pending enquiry, in case of sale of parent estate for arrears of revenue.
52. Rights of purchaser of estate not permanently settled sold for its own arrears.
53. Rights of purchaser being sharer in estate;
and of a purchaser of an estate not sold for its own arrears.
54. Rights of purchasers of shares of estate.
55. Recovery of arrears due to defaulters.
56. Punishment for contempt.
57. Default in making deposit a contempt.
58. Government may purchase at sale.
59. [*Repealed.*]
60. Regulations VII, 1822, and IX, 1825, in force in certain estates.
61. Interpretation.
62. Application of Act.
SCHEDULE.

ACT No. XI OF 1859.

Received the Governor General's assent on the 4th of May 1859.

An Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency.[a]

WHEREAS it is expedient to discontinue the practice of obtaining the previous sanction of the Board of Revenue to sales of estates for arrears of Preamble.

[a] Declared to apply to the whole of the Lower Provinces except the Scheduled Districts, Act No. XV of 1874. The words 'proprietor', 'revenue', 'estate', 'tenure', 'jurisdiction' (of a Collector), 'Collector' and 'demand', occurring in Act No. XI of 1859, are defined in Bengal Act No. VII of 1868.

revenue, or other demands of Government, in the Province of Katak: and whereas it is just that a person having a lien upon an estate, and paying the money necessary to protect it from sale for arrears of revenue, should be reasonably secured: and whereas it is expedient to afford sharers in estates, who duly pay their shares of the sadr jama of their estates, easy means of protecting their shares from sale by reason of the default of their co-sharers: and whereas it is expedient to afford landholders, particularly absentees, facilities in guarding against the accidental sale of their estates for arrears of revenue by reason of the neglect or fraud of their agents: and whereas it is expedient to provide for the voluntary registration of dependent taluqs existing at the time of settlement: and whereas it is expedient to protect the holders of registered under-tenures created since the settlement, and not resumable by the grantors or their representatives, from loss by the avoidance of their tenures on the occasion of a sale of the superior estate for arrears of public revenue, when the arrears can be realized by such sale: and to give absolute security to such tenures by special registry, when shown to be held at rents sufficient for the security of the revenue: and it is therefore proper, for the above and other purposes, to improve the law relating to sales of land for arrears of revenue in the Provinces of Bengal, Bihár and Orissa; It is enacted as follows:—

1.—[*Repealed by Act No. XIV of 1870.*]

Arrear of revenue defined.

2. If the whole or a portion of a kist or instalment of any month of the era according to which the settlement and kistbandí of any mahál have been regulated, be unpaid on the first of the following month of such era, the sum so remaining unpaid shall be considered an arrear of revenue.

Latest day of payment.

3. Upon the promulgation of this Act, the Board of Revenue at Calcutta shall determine upon what dates all arrears of revenue and all demands which, by the Regulations and Acts in force, are directed to be realized in the same manner as arrears of revenue, shall be paid up in each district under their jurisdiction, in default of which payment the estates in arrear in those districts, except as hereinafter provided, shall be sold at public auction to the highest bidder.

And the said Board shall give notice of the dates so fixed in the official Gazette, and shall direct corresponding publication to be made, as far as regards each district in the language of that district, in the office of the Collector or other officer duly authorized to hold sales under this Act, in the Courts of the Judge, Magistrate (or Joint Magistrate, as the case may be), and Munsifs, and at every thána-station of that district; and the dates so fixed shall not be changed except by the said Board by advertisement and notification, in the manner above described, to be issued at least three months before

the close of the official year preceding that in which the new date is, or dates are, to take effect.

In Silhat, personal property of defaulters may in first instance be distrained and sold.

4. Provided that in the district of Silhat, the Collector may be authorized by the Board of Revenue to proceed in the first instance by the distress and sale of the personal property of defaulters, instead of by the sale of their estates.

Proviso as to certain descriptions of arrears.

5. Provided always that no estate, and no share or interest in any estate, shall be sold for the recovery of arrears or demands of the descriptions mentioned below, otherwise than after a notification in the language of the district, specifying the nature and amount of the arrear or demand, and the latest date on which payment thereof shall be received, shall have been affixed for a period of not less than fifteen clear days preceding the date fixed for payment according to section 3 of this Act, in the office of the Collector or other officer duly authorized to hold sales under this Act, in the Court of the Judge within whose jurisdiction the land advertised lies, and in the Munsif's Court and Police-tháná of the division in which the estate or share of an estate to which the notification relates, is situated; or if the estate or share of an estate be situated within the jurisdiction of more than one Munsif's Court or Police-tháná, in some one or more of such Courts or thánás; and also at the kachahrí of the málguzár or owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, the same to be certified by the peon or other person employed for the purpose.

First.—Arrears other than those of the current year, or of the year immediately preceding.

Secondly.—Arrears due on account of estates other than that to be sold.

Thirdly.—Arrears of estates under attachment by order of any judicial authority, or managed by the Collector in accordance with such order.

Fourthly.—Arrears due on account of takḳáví, pulbandí, or other demands not being land-revenue, but recoverable by the same process as arrears of land-revenue.

Issue of notifications of sale.

6. The Collector or other officer duly authorized to hold sales under this Act shall, as soon as possible after the latest day of payment fixed in the manner prescribed in section 3 of this Act, issue notifications in the language of the district, to be affixed in his own office and in the Court of the Judge of the district, specifying the estates or shares of estates which will be sold as aforesaid, and the day on which the sale of the same will commence, which day shall not be less than thirty[a] clear days from the date of affixing the notification in the office of the Collector or other officer as aforesaid.

[a] See Bengal Act No. VII of 1868, section 3.

And if the Government revenue of any estate or share of an estate to be sold exceed the sum of five hundred rupees, a notification of the sale of such estate or share of an estate shall be published in the official Gazette.

Except as hereinafter provided, all estates or shares of estates so specified shall, on the day notified for sale, or on the day or days following, be put up to public auction by and in the presence of the Collector or other officer as aforesaid, and shall be sold to the highest bidder.

Tender after latest day of payment not to stop sale.

And no payment or tender of payment, made after sunset of the said latest day of payment, shall bar or interfere with the sale, either at the time of sale or after its conclusion.

Notice to raiyats, &c.

7. Whenever an estate or share of an estate is notified for sale as provided by section 6 of this Act, the Collector or other officer as aforesaid shall affix a proclamation in the language of the district, in his own office, and as soon thereafter as may be in the Munsif's Courts and Police-thánás within which the estate or share of an estate, or any part of it, is situated, and also at the kachahrí of the málguzár or the owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, forbidding the raiyats and under-tenants to pay to the defaulting proprietor any rent which has fallen due after the day fixed for the last day of payment, on pain of not being entitled to credit in their accounts with the purchaser for any sums so paid.

Claims of defaulter against Government not to invalidate sale.

8. No claim to abatement or remission of revenue, unless the same shall have been allowed by the authority of Government, and no private demand or cause of action whatever, held or supposed to be held by any defaulter against Government, shall bar or render void or voidable a sale under this Act; nor shall the plea that money belonging to the defaulter, and sufficient to pay the arrear of revenue due, was in the Collector's hands, bar or render void or voidable a sale under this Act, unless such money stand in the defaulter's name alone and without dispute, and unless, after application in due time made by the defaulter, or after the written agreement provided for in section 15 of this Act, the Collector shall have neglected, or refused on insufficient grounds, to transfer it in payment of the arrear of revenue due.

Deposits receivable from persons not proprietors.

9. The Collector or other officer as aforesaid shall, at any time before sunset of the latest day of payment determined according to section 8 of this Act, receive as a deposit from any person not being a proprietor of the estate or share of an estate in arrear, the amount of the arrear of revenue due, to be credited in payment of the arrear at sunset as aforesaid, unless before that time the arrear shall have been paid by a defaulting proprietor of the estate.

And in case the person so depositing, whose money shall have been credited in the manner aforesaid, shall be a party in a suit pending before a Court of Justice for the possession of the estate or share from which the arrear is due,

or any part thereof, it shall be competent to the said Court to order the said party to be put into temporary possession of the said estate or share, or part thereof, subject to the rules in force for taking security in the cases of parties in civil suits.

And if the person so depositing, whose money shall have been credited as aforesaid, shall prove before a competent civil Court that the deposit was made in order to protect an interest of the said person, which would have been endangered or damaged by the sale, or which he believed in good faith would have been endangered or damaged by the sale, he shall be entitled to recover the amount of the deposit, with or without interest as the Court may determine, from the defaulting proprietor.

And if the party so depositing, whose money shall have been credited as aforesaid, shall prove before such a Court that the deposit was necessary in order to protect any lien he had on the estate or share or part thereof, the amount so credited shall be added to the amount of the original lien.

Separation of shares held in common, by opening separate account.

10. When a recorded sharer of a joint estate, held in common tenancy, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application [a] to that effect.

The application must contain a specification of the share held in the estate by the applicant.

The Collector shall then cause to be published in his own office, in the Court of the Judge, Magistrate (or Joint Magistrate, as the case may be), and Munsifs, and in the Police-thánás in whose jurisdiction the estate or any part thereof is situated, as well as on some conspicuous part of the estate itself, a copy of the application made to him.

If, within six weeks from the date of the publication of these notices, no objection is made by any other recorded sharer, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it. The date on which the Collector records his sanction to the opening of a separate account shall be held to be that from which the separate liabilities of the share of the applicant commence.

Separation of shares consisting of specific portions of land, by opening separate account.

11. When a recorded sharer of a joint estate, whose share consists of a specific portion of the land of the estate, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application [b] to that effect. The application must contain a specification of the land comprised in his share, and of the boundaries and extent thereof, together with a statement of the amount of sadr jama heretofore paid on account of it.

a, b As to fees chargeable on such applications, see Bengal Act No. III of 1862, section 3.

On the receipt of this application, the Collector shall cause it to be published in the manner prescribed for publication of notice in the last preceding section.

In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it.

The date on which the Collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commence.[a]

If objection be made, parties to be referred to civil Court.

12. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the applicant has no right to the share claimed by him, or that his interest in the estate is less or other than that claimed by him, or if the application be in respect of a specific portion of the land of an estate, that the amount of sadar jama stated by the applicant to have been heretofore paid on account of such portion of land, is not the amount which has been recognized by the other sharers as the jama thereof the Collector shall refer the parties to the civil Court, and shall suspend proceedings until the question at issue is judicially determined.

Sale of separate shares.

13. Whenever the Collector shall have ordered a separate account or accounts to be kept for one or more shares, if the estate shall become liable to sale for arrears of revenue, the Collector or other officer as aforesaid in the first place shall put up to sale only that share or those shares of the estate from which, according to the separate accounts, an arrear of revenue may be due.

In all such cases notice of the intention of excluding the share or shares from which no arrear is due, shall be given in the advertisement of sale prescribed in section 6 of this Act. The share or shares sold, together with the share or shares excluded from the sale, shall continue to constitute one integral estate, the share or shares sold being charged with the separate portion, or the aggregate of the several separate portions, of jama assigned thereto.

Entire estate may be sold under certain conditions.

14. If in any case of a sale held according to the provisions of the last preceding section, the highest offer for the share exposed to sale shall not equal the amount of arrear due thereupon to the date of sale, the Collector or other officer as aforesaid shall stop the sale, and shall declare that the entire estate will be put up to sale for arrears of revenue at a future date, unless the other recorded sharer or sharers, or one or more of them, shall within ten days purchase the share in arrear by paying to Government the whole arrear due from such share.

[a] See Bengal Act No. VII of 1876, section 69.

If such purchase be completed, the Collector or other officer as aforesaid shall give such certificate and delivery of possession as are provided for in sections 28 and 29 of this Act, to the purchaser or purchasers, who shall have the same rights as if the share had been purchased by him or them at the sale.

If no such purchase be made within ten days as aforesaid, the entire estate shall be sold, after notification for such period and publication in such manner as is prescribed in section 6 of this Act.

Deposit for protection of estate from sale.

15. If any recorded proprietor or co-partner of an estate shall deposit with the Collector money, or Government securities endorsed and made payable to the order of the Collector, and shall sign an agreement pledging the same to Government by way of security for the jama of the entire estate, and authorizing the Collector to apply to the payment of any arrear of revenue that may become due from that estate, the whole or any portion of the said money or securities that may be necessary for that purpose, then in the case of any arrear of revenue due from the said estate not being paid before sunset of the latest day of payment fixed under section 3 of this Act, the Collector shall apply to the payment of such arrear the said money or securities, or such part thereof or of any interest due on the said securities, as may be necessary; and for this purpose the Collector shall first apply any money that may be in his hands and any interest that may be due upon such securities, and may then sell and transfer the securities for any balance that may remain.

And so long as any money or securities as aforesaid, sufficient to cover any arrear that may fall due, shall remain and be available as aforesaid, the estate for the protection of which the said deposit was made shall be exempted from sale for arrears of revenue.

All monies and securities so deposited shall be exempt from attachment otherwise than in execution of a decree of a civil Court.[a]

Withdrawal of deposit.

16. It shall be competent to the person making a deposit under the provision of the last preceding section, or his representative or assignee, at any time to withdraw the deposit and to revoke the pledge of the same.[b]

Estates under Court of Wards or under attachment.

17. No estate shall be liable to sale for the recovery of arrears which have accrued during the period of its being under the management of the Court of Wards; and no estate the sole property of a minor or minors and descended to him or them by the regular course of inheritance duly notified to the Collector for the information of the Court Wards, but of which the Court of Wards has not assumed the management under Regulation VI, 1822, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same,

a, b As to fees chargeable on applications under this section, see Bengal Act No. III of 1862, section 3.

until the minor or minors, or one of them, shall have attained the full age of eighteen years.

And no estate held under attachment by the Revenue-authorities otherwise than by order of a judicial authority, shall be liable to sale for arrears accruing whilst it was so held under attachment.

And no estate held under attachment or managed by a Revenue-officer, in pursuance of an order of a judicial authority, shall be liable to sale for the recovery of arrears of revenue accruing during the period of such attachment or management, until after the end of the year in which such arrears accrued.

Power to exempt from sale.

18. It shall be competent to the Collector or other officer as aforesaid, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale; and in like manner it shall be competent to the Commissioner of Revenue, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale, by a special order to the Collector or other officer as aforesaid to that effect in each case; and no such sale shall be legal if held after the receipt of such order of exemption.

Proviso.

Provided, however, and it is hereby enacted, that the Collector or other officer as aforesaid, or the Commissioner, shall duly record in a proceeding the reason for granting such exemption; and provided also that an order for exemption so issued by the Commissioner shall not affect the legality of a sale which may have taken place before the receipt by the Collector or other officer as aforesaid of the order of exemption.

Sales where to be made.

19. Sales shall ordinarily be made by the Collector or other officer as aforesaid in the land-revenue office at the sadr station of the district: Provided, however, that it shall be competent to the Board of Revenue to prescribe a place for holding sales other than such office whenever they shall consider it beneficial to the parties concerned.

Adjournment of sales.

20. In case the Collector or other officer as aforesaid shall be unable from sickness, from the occurrence of a holiday, or from any other cause, to commence the sale on the day of sale fixed as aforesaid, or if, having commenced it, he be unable, from any cause, to complete it, he shall be competent to adjourn it to the next day following, not being Sunday or other close holiday, recording his reasons for such adjournment, forwarding a copy of such record to the Commissioner of Revenue, and announcing the adjournment by written proclamation stuck up in his kachahrí; and so on, from day to day, until he shall be able to commence upon or to complete the sale; but, with the exception of adjournments so made, recorded and reported, each sale shall invariably be made on the day of sale fixed in the manner aforesaid.

Order of selling.

21. On the day of sale fixed according to section 6 of this Act, sales shall proceed in regular order; the estate to be sold bearing the lowest number on the taují or register in use in the Collector's office of the district being put up first, and so on, in regular sequence; and it shall not be lawful for the Collector or other officer as aforesaid to put up any estate out of its regular order by number, except where it may be necessary to do so on default of deposit, as provided in section 22 of this Act.

Deposit on account of purchase-money.

22. The party who shall be declared the purchaser of an estate or share of an estate at any such public sale as aforesaid, shall be required to deposit immediately or as soon after the conclusion of the sale of the estate or share as the Collector or other officer as aforesaid may think necessary, either in cash, Bank of Bengal notes or post-bills, or Government securities, to be valued at the market-rate of the day, duly endorsed, twenty-five per cent. on the amount of his bid; and in default of such deposit the estate or share shall forthwith be put up again and sold.

Full payment of purchase-money.

23. The full amount of purchase-money shall be made good by the purchaser before sunset of the thirtieth day from that on which the sale of the estate or share of an estate bought by him took place, reckoning that day as one of the thirty; or if the thirtieth day be a Sunday or other close holiday, then on the first office day after the thirtieth; and in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to Government, the estate or share shall be re-sold, and the defaulting purchaser shall forfeit all claim to the estate or share, or to any part of the sum for which it may subsequently be sold.

And in the event of the proceeds of the sale which may be eventually consummated being less than the price bid by the defaulting bidder aforesaid, the difference shall be leviable from him by any process authorized for realizing an arrear of public revenue, and such difference shall be taken and considered to be a part of the purchase-money, and shall be dealt with in the manner hereinafter prescribed for the disposal thereof.

Re-sale.

24. When default is made in the payment of purchase-money, a notification of the intended re-sale shall be published for the period and in the manner prescribed in section 6 of this Act, but such notification shall not be published until the expiration of three clear days after the day on which the default shall have occurred; and if the payment or tender of payment of the arrear on account of which the estate or share was first sold, and of any arrear which may have subsequently become due, shall be made by or on behalf of the proprietor of the estate or share before sunset of the third day, the issue of the notification of re-sale shall be stayed. The rules contained in the last preceding section shall be applicable to every such re-sale.

Provided that, if default of payment of purchase-money shall occur more than once, the amount to be recovered from the defaulting bidders shall be the difference between the highest bid and the proceeds of the sale eventually consummated, which amount may be levied in manner aforesaid from any of the defaulting bidders to the extent of the amount by which his bid exceeds the amount realized.

25.—[*Repealed by Bengal Act No. VII of 1868, section 29.*]

Annulment of sale in special cases.

26. It shall be competent to the Commissioner of Revenue, on the ground of hardship or injustice, to suspend the passing of final orders in any case of appeal from a sale, and to represent the case to the Board of Revenue, who, if they see cause, may recommend to the Local Government to annul the sale; and the Local Government in any such case may annul the sale and cause the estate or share of an estate to be restored to the proprietor on such conditions as may appear equitable and proper.

Sales when final.

27. All sales of which the purchase-money has been paid up as prescribed in section 23 of this Act, and against which no appeal shall have been preferred, shall be final and conclusive at noon of the sixtieth [a] day from the day of sale, reckoning the said day of sale as the first of the said sixty [b] days.

And sales against which an appeal may have been preferred and dismissed by the Commissioner shall be final and conclusive from the date of such dismissal, if more than sixty [c] days from the day of sale, or if less, then at noon of the sixtieth [d] day as above provided.

Certificate of sales.

28. Immediately upon a sale becoming final and conclusive, the Collector or other officer as aforesaid shall give to the purchaser a certificate of title in the form prescribed in schedule A annexed to this Act. And the said certificate shall be deemed in any Court of Justice sufficient evidence of the title to the estate or share of an estate sold being vested in the person or persons named from the date specified; and the Collector shall also notify such transfer by written proclamation in his own office, and in the courts of the Munsifs and Police-thánás within whose jurisdictions any part of the estate or share sold shall be situated.

Delivery of possession.

29. The Collector or other officer as aforesaid shall order delivery of possession of the estate or share purchased to be made by removing any person who may refuse to vacate the same, and by proclamation to the occupants of the property by beat of drum or in such other mode as may be customary, at some convenient place or places; and by affixing a copy of the certificate at the mál-kachahrí or in some conspicuous place of the estate or share of an estate purchased.

a, b, c, d See Bengal Act No. VII of 1868, section 4.

Liability of purchaser.

30. The party certified as the proprietor of an estate or share of an estate by purchase under this Act, shall be answerable for all instalments of the revenue of Government which may fall due after the latest day of payment aforesaid.

Application of purchase-money.

31. The Collector shall apply the purchase-money, first, to the liquidation of all arrears due upon the latest day of payment from the estate or share of an estate sold; and secondly, to the liquidation of all outstanding demands debited to the estate or share of an estate in the public accounts of the district; holding the residue, if any, in deposit on account of the late recorded proprietor or proprietors of the estate or share of an estate sold, or their heirs or representatives, to be paid to his or their receipt on demand in manner following: to wit, in shares proportioned to their recorded interest in the estate or share of an estate sold, if such distinction of shares were recorded, or if not, then as an aggregate sum to the whole body of proprietors upon their joint receipt.

And if before payment to the late proprietor or proprietors of any surplus that may remain of the purchase-money, the same be claimed by any creditor in satisfaction of a debt, such surplus shall not be payable to such claimant, nor shall it be withheld from the proprietor, except under precept of a civil Court.

Notification of annulment of sale.

32. The annulment by a Commissioner or by Government of a sale made under this Act, shall be publicly notified by the Collector or other officer as aforesaid, in the same manner as the becoming final and conclusive of sales is required to be notified by section 28 of this Act; and the amount of deposit and balance of purchase-money shall be forthwith returned to the purchaser with interest thereon at the highest rates of the current public securities; which shall be paid by the Government, unless the proprietor shall have become liable for the same under the provisions of section 25 or section 26 of this Act.

Jurisdiction of civil Courts in suits to annul sales.

33. No sale for arrears of revenue or other demands realizable in the same manner as arrears of revenue are realizable, made after the passing of this Act, shall be annulled by a Court of Justice, except upon the ground of its having been made contrary to the provisions of this Act,[a] and then only on proof that the plaintiff has sustained substantial injury by reason of the irregularity complained of: and no such sale shall be annulled upon such ground, unless such ground shall have been declared and specified in an appeal made to the Commissioner under section 25 of this Act: and no suit to annul a sale made under this Act shall be received by any Court of Justice, unless

[a] See 5 Beng. 135.

it shall be instituted within one year from the date of the sale becoming final and conclusive as provided in section 27 of this Act: and no person shall be entitled to contest the legality of a sale, after having received any portion of the purchase-money.

Proviso.

Provided, however, that nothing in this Act contained shall be construed to debar any person considering himself wronged by any act or omission connected with a sale under this Act, from his remedy in a personal action for damages against the person by whose act or omission he considers himself to have been wronged.

Effects of annulment of sales by decree of Court.

34. If a sale made under this Act be annulled by a final decree of a civil Court, application for the execution of such decree shall be made within six months after the date thereof; otherwise the party in whose favour such decree was passed shall lose all benefit therefrom.

And no order for restoring such decree-holder to possession shall be passed until any amount of surplus purchase-money that may have been paid away by order of a civil Court be repaid by him, with interest at the highest rate of the current Government securities.

And if such party shall neglect to pay any amount so recoverable within six months from the date of such final decree, he shall lose all benefit therefrom.

If sale annulled, purchase-money to be refunded.

35. In the event of a sale being annulled by a final decree of a Court of Justice, and the former proprietor being restored to possession, the purchase-money shall be refunded to the purchaser by Government, together with interest at the highest rate of the current public securities.

Dismissal of suit brought to oust purchaser on ground that purchase was made for another.

36. Any suit brought to oust the certified purchaser as aforesaid on the ground that the purchase was made on behalf of another person not the certified purchaser, or on behalf partly of himself and partly of another person, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Rights of purchaser of permanently settled estate sold for its own arrears.

37. The purchaser of an entire estate in the permanently settled districts of Bengal, Bihár and Orissa, sold under this Act for the recovery of arrears due on account of the same, shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement; and shall be entitled to avoid and annul all under-tenures and forthwith to eject all under-tenants, with the following exceptions:

First.—Istimrárí or mukarrarí tenures which have been held at a fixed rent from the time of the permanent settlement.

Secondly.—Tenures existing at the time of settlement, which have not been held at a fixed rent.

Provided always that the rents of such tenure shall be liable to enhance-

ment under any law for the time being in force for the enhancement of the rent of such tenures.

Thirdly.—Taluqdárí and other similar tenures created since the time of settlement and held immediately of the proprietors of estates and farms for terms of years so held, when such tenures and farms have been duly registered under the provisions of this Act.

Fourthly.—Leases of lands whereon dwelling-houses, manufactories or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship or burning or burying grounds have been made, or wherein mines have been sunk.

And such a purchaser as is aforesaid shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions above made, if he can prove the same to have been held at what was originally an unfair rent, and if the same shall not have been held at a fixed rent, equal to the rent of good arable land, for a term exceeding twelve years; but not otherwise.

Provided always that nothing in this section contained shall be construed to entitle any such purchaser as aforesaid to eject any raiyat having a right of occupancy at a fixed rent or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such raiyat otherwise than in the manner prescribed by such laws, or otherwise than the former proprietor, irrespectively of all engagements made since the time of settlement, may have been entitled to do. Proviso.

38. The following rules for the registration of taluqdárí and other similar tenures created since the time of settlement, and held immediately of the proprietors of estates, and of farms for terms of years so held, shall be observed. Registration of certain tenures and farms.

39. There shall be two sets of registers, one for common registry and one for special registry. Common and special registry.

Common registry shall secure such tenures and farms against any auction-purchaser at a sale for arrears of revenue except the Government.

Special registry shall secure such tenures and farms against any auction-purchaser at a sale for arrears of revenue including the Government.

40. The holder of any taluqdárí or other similar tenure, such as is described in section 38 of this Act, desirous of registering it, shall apply by petition to the Collector of the district to which the estate belongs. Application for registry.

The application [a] shall state which description of registry is desired, and

[a] See Bengal Act No. III of 1862, section 2, as to time limited for applications for registry of tenures, and section 3 as to fees chargeable.

shall contain the following particulars so far as the same are ascertainable:—

(1), the pargana or parganas in which the tenure is situated;

(2), the nature of the tenure;

(3), the name or names of the village or villages whereof the land is composed, or wherein it is situated;

(4), the area of the land comprised in the tenure, with its boundaries in complete detail;

(5), the amount of rent payable annually for the tenure, and whether the rent is fixed for a term of years or in perpetuity, and the duties, if any, required to be performed on account of it;

(6), the date of the deed constituting the tenure, or the date when the tenure was created;

(7), the name of the proprietor who created the tenure;

(8), the name of the original holder of the tenure;

(9), the name of the present possessor, and if he be not the original holder, the mode in which he succeeded to the tenure, whether by inheritance, gift, purchase or otherwise, and whether he holds jointly or solely.

Holders of such farms as are described in the said section may apply in like manner for registry of the same.

The application shall contain such of the foregoing particulars as are applicable to farms.

Procedure on application for common registry.

41. When the application is for common registry, the Collector shall serve a notice on the recorded proprietor or proprietors of the estate in which the tenure or farm is situated, or the authorized agent of such proprietor or proprietors, with a copy of the application annexed; and shall cause a notice, with a copy of the application annexed, to be affixed in his office, and at the málkachahrí of the estate in which the tenure or farm is situated, or in such other place or places as in the opinion of the Collector may be best suited to give publicity to the application, requiring the proprietor or any party interested, within thirty days from the issue of the said notice, to file any objections he may have to the registry of the tenure or farm, or to any statement contained in the application.

If within the limited time no objection is made, the Collector shall register the tenure or farm.

If within the limited time an objection is made by any recorded proprietor, or by any party interested not being a proprietor, the Collector shall examine the person so objecting or his authorized agent, and if it shall appear to him that such person has probable ground of objection, the Collector shall suspend proceedings, and shall refer the parties to the civil Court; otherwise he shall grant the application.

If the decision of the civil Court be in favour of the applicant, the Collector, on the presentation of a copy of the final decree, shall register the tenure or farm.

Procedure on application for special registry.

42. When the application is for special registry, the Collector shall serve and issue the notices prescribed in the last preceding section.[a]

If within the limited time no objection is made, the Collector shall cause any enquiry that he may deem necessary for the security of the Government revenue to be made; and if he is satisfied that the Government revenue of the parent estate is sufficiently secured so far as it may be affected by the tenure or farm in question, he shall report the case to the Commissioner, who, if also satisfied on that point, shall direct the tenure or farm to be registered according to the application; otherwise the application shall be rejected.

If within the limited time any recorded proprietor or any party interested not being a proprietor object to the registry, the Collector shall examine the person so objecting or his authorized agent, and if it shall appear to him that such person has probable ground of objection, shall suspend proceedings, and shall refer the parties to the civil Court; otherwise he shall proceed as if no objection had been made.

If the decision of the civil Court be in favour of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time.

Registration of leases of certain lands.

43. Leases of lands of the description specified in the fourth exceptional class in section 37 may be registered, at the option of the holders, in the manner and under the rules hereinbefore provided for the registry of taluqdárí and other similar tenures.[b]

Registration of old tenures.

44. Tenures of the first and second exceptional classes in section 37 may be registered at the option of the holders; and when so registered shall be entered only in the special register.

Application[c] for such registry shall contain the particulars specified in section 40 so far as the same are ascertainable, and notices shall be served and issued in the manner prescribed in section 41.

If within the limited time no objection is made by any recorded proprietor or by any party interested not being a proprietor, the Collector shall make such enquiries as may be necessary to satisfy him as to the validity of the tenure; and if the result be to satisfy him that the tenure is valid, he shall report the case to the Commissioner, who, if also satisfied that the tenure is

a See Bengal Act No. VIII of 1876, section 96.

b,c See Bengal Act No. III of 1862, section 2, as to time limited for applications for registry of tenures, and section 3 as to fees chargeable.

valid, shall direct it to be entered in the special register; otherwise the application for registry shall be rejected.

If within the limited time any recorded proprietor or other party as aforesaid object to the registry of the tenure, the Collector shall examine the person so objecting or his authorized agent, and if it shall appear to him that such person has probable ground of objection, shall suspend proceedings, and refer the parties to the civil Court; otherwise he shall proceed as if no objection had been made.

If the decision of the civil Court be in favour of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time.

Proviso. Provided always that nothing contained in this section shall be understood as rendering registration necessary for the protection of *bonâ fide* tenures of the description herein referred to.

45.—[*Repealed by Bengal Act No. III of 1862.*]

Expenses of measurement, survey or local enquiry.

46. The actual expenses of any measurement, survey or local enquiry made under sections 42 and 44 of this Act, shall be borne by the party who applies for the registry of his tenure or farm; and such party may be required by the Collector from time to time to make such advances on this account as he may consider necessary.

Civil Court not competent to order entry in special register.

47. No civil Court shall be competent to order the Revenue-authorities to enter any tenure or farm in the special register.

Provided always that the refusal of the Revenue-authorities so to register any tenure or farm shall not affect the title of the holder, whatever it may be.

Suit for cancelment of registry of tenure or farm.

48. Subject to the general law of limitation, any person thinking himself wronged by the registry of a tenure or farm, may file a suit for the cancelment of the same.

Proceedings of Revenue-authorities in registration of tenures, &c.

49. In the execution of their functions in the registration of tenures and farms under this Act, all subordinate Revenue-authorities shall proceed in accordance with the general instructions which they may receive from the superior Revenue-authorities to whom they are subordinate, and from the Local Government; and all orders passed under the sections aforesaid shall be open to appeal in usual course.

The order of a Commissioner for the special registry of a tenure under the provisions of this Act shall be open at any time within one year from the date of registry to revision by the Board of Revenue or the Local Government, on the ground of the Government revenue not having been sufficiently secured, or of the invalidity of the tenure, as the case may be.

Effect of entry in special register.

50. Entry in the special register shall be an effectual protection of the tenure or farm so registered, unless, in a suit instituted by Government in a

civil Court within the period allowed for suits for the recovery of the public revenue, a decree be passed pronouncing the registration to have been obtained by fraud, to the injury of the Government revenue.

Provided that a tenure or farm in the hands of a *bonâ fide* purchaser for value shall not be avoided by reason of such fraud.

But the tenure or farm shall be liable to such amount of rent as would have been fair and equitable at the time of the special registry thereof, such amount to be fixed by the Collector.

Protection of taluqdárí tenures pending enquiry, in case of sale of parent estate for arrears of revenue.

51. Tenures and farms of the third exceptional class described in section 37 of this Act, for the special registration of which application shall be made within the prescribed time, and in respect of which the Collector shall have commenced the enquiry prescribed in section 42, shall, in case of the sale of the parent estate for arrears of revenue, be protected pending the duration of such enquiry, and shall be protected eventually by registration, if the final award of the Revenue-authorities upon such application be in favour of the claimant.

Rights of purchaser of estate not permanently settled, sold for its own arrears.

52. The purchaser of an estate in a district not permanently settled, sold under this Act for the recovery of arrears due on account of the same, shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement, and shall be entitled to avoid and annul all tenures which may have originated with the defaulter or his predecessors, being representatives or assignees of the original engager, as well as all agreements with raiyats or the like, settled or accredited by the first engager or his representatives, subsequently to the last settlement, as well as all tenures which the first engager may, under the conditions of his settlement, have been competent to set aside, alter or renew, saving always and except leases of lands whereon dwelling-houses, manufactories or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship or burning or burying grounds have been made, or wherein mines have been sunk, which leases or engagements shall, so long as the land is duly appropriated to such purposes, and the stipulated rent paid, continue in force and effect.

Provided that nothing contained in this section shall be construed to entitle any purchaser of land at a public sale for arrears of revenue to demand a higher rate of rent from any persons whose tenure or agreement may be annulled as aforesaid, than was demandable by the former proprietor, except in cases in which such persons may have held their lands under engagements, stipulating for a lower rate of rent than would have been justly demandable for the land, or in cases in which it may be proved that, according to the custom of the pargana, mauzá, or other local division, such persons are liable to be

called upon for any new assessment, or other demand not interdicted by the regulations of Government.

Rights of purchaser being sharer in estate;

53. Excepting sharers in estates under batwára who may have saved their shares from sale under sections 33 and 34, Regulation XIX, 1814, and sharers with whom the Collector, under sections 10 and 11 of this Act, has opened separate accounts, any recorded or unrecorded proprietor or co-partner, who may purchase the estate of which he is proprietor or co-partner; or who by re-purchase or otherwise may recover possession of the said estate, after it has been sold for arrears under this Act; and likewise any purchaser of an estate sold for arrears or demands other than those accruing upon itself; shall by such purchase acquire the estate subject to all its encumbrances existing at the time of sale and shall not acquire any rights in respect to under-tenants or raiyats, which were not possessed by the previous proprietor at the time of the sale of the said estate.[a]

and of purchaser of estate not sold for its own arrears.

Rights of purchasers of shares of estate.

54. When a share or shares of an estate may be sold under the provisions of section 13 or section 14, the purchaser shall acquire the share or shares subject to all encumbrances, and shall not acquire any rights which were not possessed by the previous owner or owners.

Recovery of arrears due to defaulters.

55. Arrears of rent which on the latest day of payment may be due to the defaulter from his under-tenants or raiyats, shall, in the event of a sale, be recoverable by him after the said latest day, by any process except distraint which might have been used by him for that purpose on or before the said latest day.

Punishment for contempt.

56. Any Collector or other officer as aforesaid conducting a sale under this Act shall be competent to punish any contempt committed in his presence in open kachahrí or office for the time being, by fine to an extent not exceeding two hundred rupees, commutable if not paid to imprisonment in the civil jail for a period not exceeding one month; and the Magistrate to whom such an offender may be sent by a Collector or other officer as aforesaid, shall carry his sentence into effect.

Provided that an appeal from any order passed under this section shall lie to the Revenue Commissioner, whose decision shall be final.

Default as to deposit a contempt.

57. A default to make good a bid by making the deposit required by section 22 of this Act, shall be held to be a contempt.

Government may purchase at sale.

58. When an estate is put up for sale under this Act for the recovery of arrears of revenue due thereon, if there be no bid, the Collector or other officer as aforesaid may purchase the estate on account of the Government for one rupee, or if the highest bid be insufficient to cover the said arrears and those

[a] 7 Beng. L. R. Appendix, 52.

subsequently accruing up to the date of sale, the Collector or other officer as aforesaid may take or purchase the estate on account of the Government at the highest amount bid; in both which cases the Government shall acquire the property subject to the provisions of this Act.

59.—[*Repealed by Bengal Act No. III of 1862.*]

60. The provisions of Regulation VII. 1822[a] and Regulation IX. 1825[b] shall be in force in every estate in any part of which a measurement, survey, or local enquiry may be made under this Act; and in every estate purchased or taken on account of Government under this Act. Regulations VII. 1822 and IX. 1825 in force in certain estates.

61. In the construction of this Act the word "Collector" shall include a Deputy Collector or other officer exercising, by the authority of Government, the powers of a Collector or Deputy Collector. Interpretation.

62. The operation of this Act shall be confined to such parts of the Lower Provinces in the Presidency of Fort William in Bengal, as are or shall be subject to the general Regulations of that Presidency. Application of Act.

SCHEDULE A.

I certify that *A. B.* has purchased under Act No. XI of 1859, the mahál [*or* share of a mahal] specified below, standing in the taují of the district of and that his purchase took effect on the day of [*being the day after that fixed for last day of payment*].

(Signed) *D. E.*,
Collector.

SPECIFICATION.

(If of an entire mahál.)

Taují number
Name of mahál
Name of the former proprietor
Sadr jama.

(If of a share of a mahál.)

Taují number of the entire mahál
Name of the entire mahál
Sadr jama of the entire mahál
Description of the share sold

[a] See *supra*, p. 178.

[b] See *supra*, p. 216.

Subordinate taují number of the share sold

Name of the former proprietor of the share sold

Sadr jama for which the share sold is separately liable.

SCHEDULE B.

FEES.

For filing an application under section 10 or section 11 for opening a separate account for a share of an entire estate—

If the annual jama of the share do not exceed two hundred and fifty rupees.....25.

If the annual jama of the share exceed two hundred and fifty rupees and do not exceed one thousand rupees—at the rate of ten per cent. upon the jama.

If the annual jama of the share exceed one thousand rupees—at the rate of ten per cent. upon one thousand rupees, and two per cent. upon all above that amount.

For filing an application for a deposit of money or Government securities under section 15—half per cent. on the amount deposited.

For any interest on Government securities so deposited, drawn by the Collector—half per cent. of the amount drawn.

For filing an application for withdrawal of a deposit under section 16—half per cent. of the amount withdrawn.

For filing an application under section 40, 43 or 44 for the registration of an under-tenure or farm.

If the annual rent of the under-tenure do not exceed five hundred rupees.....25.

If the annual rent of the under-tenure exceed five hundred rupees and do not exceed one thousand rupees—at the rate of five per cent. upon the rent.

If the annual rent of the under-tenure exceed one thousand rupees—at the above rate up to one thousand rupees, and at one per cent. upon all above that amount.

ACT No. XII of 1859.

Received the Governor General's assent on the 4th of May 1859.

An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty.[a]

Preamble.

WHEREAS it is expedient to amend the law for the trial of persons employed in the Pilot Service of Government at the Presidency of Fort William in Bengal, when accused of breach of duty, and to extend the same to persons licensed to act as pilots at the said Presidency; It is enacted as follows:—

1.—[*Repealed by Act No. XIV of 1870.*]

Trial of pilots accused of breach of duty.

2. When any person employed in the Pilot service of Government at the Presidency of Fort William in Bengal, or licensed to act as a pilot at the said Presidency, shall be accused of having committed any breach of duty while engaged in such service or acting under such license, and it shall appear to the Superintendent of Marine, or to the Lieutenant-Governor of Bengal, that such person ought to be brought to trial for such breach of duty, such person shall be brought to trial upon a charge or charges framed by the said Superintendent of Marine, or such other person as the said Lieutenant-Governor shall direct, before a Court constituted under the provisions of this Act.

Appointment of Judge.

3. The Lieutenant-Governor of Bengal shall appoint a fit person to be Judge of the said Court.

Appointment of prosecutor.

4. The Lieutenant-Governor shall appoint such person as he may think proper to conduct the proceedings before the Court as prosecutor on the part of Government.

Trial to be held before Judge and jury.

5. Every trial under this Act shall be held before the said Judge and a jury composed of two merchants of Calcutta, a master of a merchant-ship lying in the Port of Calcutta, and a pilot of not less than twenty years' service.

Lists of merchants and pilots liable to serve on jury.

6. The Judge shall cause to be prepared and shall keep two separate lists, one containing the names of merchants, the other containing the names of pilots, liable to serve on such jury.

The names in each list shall be arranged in alphabetical order, and the place of abode and quality or business of each person named shall be stated.

Notice to prosecutor and accused of time and place for appointing jury.

7. When the Judge shall be about to hold a trial under this Act, he shall give notice to the prosecutor and to the party accused of a time and place to be fixed by the Judge for appointing a jury to serve at such trial.

[a] As to the powers of the Court conducting a trial under this Act to compel the attendance and examination of witnesses, see Act No. IV of 1875, section 31.

Appointment of jury.

8. At the time and place mentioned in the notice, the Judge in the presence of the prosecutor and the person accused shall read over the names which first occur in each of the said lists of those merchants and pilots who he has reason to believe are present in Calcutta and capable of attending as jurors at the trial; and shall also propose the name of a master of a merchant-ship lying in the Port of Calcutta, whom he deems qualified to serve on such jury.

If no objection be made and allowed, the persons so nominated shall be the jury to serve at the trial.

If the prosecutor or the party accused shall object to any of the persons named as jurors, he shall assign the grounds of his objection and such objection shall forthwith be decided by the Judge.

If the objection be allowed, the Judge shall read from the said lists or propose (as the case may be) another name in the place of the one objected to, and the person so nominated shall serve on the jury, provided no objection to such person be made and allowed as aforesaid.

Day of trial to be fixed and summons to issue to jurors.

9. When a jury has been appointed under the last preceding section, the Judge shall fix a day for the trial and shall summon by writing under his hand the persons so appointed to sit as a jury.

Penalty for non-attendance.

If any such person when duly summoned shall, without such excuse as the Judge shall allow to be sufficient, neglect or refuse to attend at the time appointed or to remain in attendance until the trial shall be completed, it shall be lawful for the said Judge to impose upon any such person a fine not exceeding two hundred rupees for every such default; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the defaulter under a warrant to be issued for that purpose by the Judge.

Such warrant may be transmitted by the Judge to any Magistrate of police for the town of Calcutta, and thereupon such Magistrate shall endorse the same and shall cause it to be executed in the same manner as if the warrant had been issued by such Magistrate.

Trial how to proceed if any juror does not attend.

10. If for any cause any of the persons summoned to attend as jurors shall not be in attendance at the time fixed for the commencement of the trial, the trial may with the consent of the prosecutor and the party accused be held before the Judge and such jurors as shall be in attendance.

If such consent be not given, the place of the absent juror shall be supplied by some other person selected by the Judge from the same profession or calling as the person originally summoned and who shall consent to serve, provided no objection to such person be made and allowed in manner aforesaid.

If the parties or either of them do not consent that the trial shall be held before the Judge and such jurors as may be in attendance and the place of the

absent juror cannot be supplied by a person consenting to serve, the trial shall be postponed to another day and the Judge shall either re-summon the same jury or appoint and summon another jury in the manner hereinbefore provided.

Register of jurors who have served.

11. The Judge shall register in a book the names of all jurors mentioned in either of the said two lists who have attended and served on a trial held under this Act.

A juror who has served shall not be required again to serve and his name shall be excluded in reading over the jury-lists until all the persons named in the said lists who are present in Calcutta and capable of attending as jurors shall have served.

12.—[*Repealed by Act No. X of 1873.*]

Judge may summon witnesses to attend at certain time and place.

Examination of witnesses about to leave Calcutta.

13. It shall be lawful for the Judge of the said Court, at the instance of the prosecutor, or of the party accused, or of his own motion, by writing under his hand, to summon any person to attend as a witness at a time and place to be specified in the summons, for the purpose of being examined at any trial before the said Court: or if such person shall be about to depart from Calcutta, so as to be unable to attend at such trial without serious inconvenience, then to be examined before the Judge of the said Court before the day fixed for the trial; provided always that due notice of the time and place of such examination shall be given to the accused party; provided also that such witness may nevertheless be examined at the trial if he shall be able to attend thereat, in which case his previous examination may also be read at the trial.

Penalty for witnesses not attending or refusing to give evidence.

14. If any person who shall have been duly summoned to attend as a witness shall, without sufficient excuse, neglect or refuse to attend, or attending shall refuse to give evidence or to answer any question which may be lawfully put to him, such person shall forfeit and pay such fine, not exceeding five hundred rupees, as the Judge of the said Court shall order; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the person ordered to pay the same in the manner prescribed in section 9 of this Act.

15.—[*Repealed by Act No. X of 1873.*]

Verdict of jurors.

16. Upon the completion of the trial, the jurors shall give their verdict upon the charge, or, if there be more than one, upon each separate charge.

The verdict shall be according to the opinion of the majority of jurors. If the jurors are equally divided, the Judge shall declare his opinion, and the verdict shall be according to the opinion of the Judge and the jurors with whom he concurs.

Sentence if accused found guilty.

17. If by such verdict the accused person is found guilty of the charge or of any one or more of the charges preferred against him, the Judge of the

Court shall sentence him to be dismissed from the said Pilot-service, or to have his license withdrawn, or shall award such other punishment, by loss of rank or pay, or by change of a license from a higher to a lower grade, or suspension from employment for a specified period, as to the Judge shall appear fit.

Preparation of schedule of offences and punishments.

The Lieutenant-Governor of Bengal, with the sanction of the Governor General in Council, may prepare a schedule of offences and punishments (such punishments being of the same nature as those hereinbefore mentioned) for the guidance of the said Court; and if such schedule be prepared and sanctioned, and the charge proved before the said Court is an offence specified in such schedule, the Judge of the said Court shall award such punishment as is prescribed for such offence in the said schedule, and no other.[a]

[a] SCHEDULE OF OFFENCES AND PUNISHMENTS PREPARED IN ACCORDANCE WITH SECTION 17, ACT XII OF 1859.

Offences through Unskilfulness, Neglect, &c., when in Pilotage-charge.

1. Any pilot who, when in pilotage-charge of any vessel, shall, through unskilfulness, negligence or other default allow such vessel to ground, or cause injury, by collision or otherwise, to the vessel in his charge or to any other vessel, shall be punished by suspension or reduction of pay for a term not exceeding twelve months, or by a reduction either in steps or grade.

2. If in any case the loss of any vessel is the consequence of any of the offences above described, the pilot shall also be liable to dismissal.

3. Any pilot who shall unnecessarily cut or slip, or cause to be cut or slipped, any cable belonging to any vessel under his pilotage-charge, shall be punished by suspension or reduction of pay for a term which may extend to three months.

4. Any pilot who shall either through unskilfulness, neglect or other default cause damage to any floating light-vessel, buoy or beacon, shall be punished by suspension or reduction of pay for a term which may extend to three months, and shall also be liable to make good the damage caused.

5. Any pilot who shall be asleep when in pilotage-charge of any vessel under weigh, or who shall fail to attend, whether by day or by night, to the swinging of the vessel of which he may be in pilotage-charge, shall be punished with suspension or reduction of pay for a term not exceeding six months.

6. Any pilot who shall be drunk when in pilotage-charge of any vessel, shall be punished by dismissal.

Offences against Discipline or Departmental Rules.

7. Any pilot who shall refuse to take pilotage-charge of a vessel when ordered to do so by competent authority, or who shall improperly throw up pilotage-charge of any vessel, or who shall quit the vessel of which he is in pilotage-charge without the consent of the master or commanding officer, before the service for which he was engaged has been performed, shall be punished with suspension or reduction of pay for a period which may extend to twelve months, or by dismissal.

8. Any pilot who shall be drunk on board a pilot-vessel, or when on general duty (otherwise than in pilotage-charge), shall be punished with suspension or reduction of pay for a term which may extend to twelve months; and for any repetition of the offence shall be liable to dismissal.

9. Any pilot who shall be guilty of disobedience of orders, shall be punished with suspension or reduction of pay for a term which may extend to twelve months, or by reduction in steps or grade, or by dismissal.

10. Any pilot who shall be found guilty of insubordination or disrespect to a superior officer, shall be punished with suspension or reduction of pay for a term which may extend to six months.

11. Any pilot who shall assault his superior officer when on duty may be punished, in addition to any penalty to which he may be liable under the Penal Code, by dismissal, or by suspension or reduction of pay for a term not exceeding twelve months, or by reduction of grade.

12. Any pilot who shall, when in command of a pilot-vessel, neglect to attend to the proper maintenance, discipline or navigation of such vessel, or any pilot who shall wilfully waste, destroy or misapply public stores and property, shall be punished with suspension or reduction of pay for a term which may extend to twelve months, or by dismissal.

13. Any pilot who shall be guilty of any breach of rules duly promulgated by proper authority for his guidance as a pilot, and the punishment for which is not already laid down in this schedule,

If by such verdict as aforesaid the accused person is found not guilty of the charge or charges preferred against him, the Judge shall declare him acquitted of the same. Acquittal.

18. The proceedings of the Court shall be sent by the Judge to the Superintendent of Marine for submission to the Lieutenant-Governor of Bengal; and no sentence of punishment pronounced by the Judge of the said Court shall be final until it has been approved of by the said Lieutenant Governor. No sentence final till approved by Government.

The said Lieutenant-Governor may remit the whole or any part of such sentence, or may direct the substitution of any mitigated punishment in lieu of the punishment awarded by the said Court, as he shall think fit. Government may remit sentence or mitigate punishment.

19. If it shall appear to the Judge of the said Court that the verdict of the jurors is manifestly contrary to the evidence, or that the trial is otherwise insufficient, the Judge, instead of passing sentence on the accused person or declaring him acquitted, as the case may be, may certify the same to the Lieutenant-Governor of Bengal, and the said Lieutenant-Governor may either order a new trial before another jury or acquit the accused person, as he shall think fit. If verdict of jurors be manifestly contrary to evidence, or trial otherwise insufficient.

20. It shall be lawful for the Lieutenant-Governor of Bengal to make such rules as he shall think proper, not inconsistent with the provisions of this Act, for conducting the proceedings and regulating the practice of the said Court.[a] Power to make rules.

shall be punished with suspension or reduction of pay for a term not exceeding twelve months, or by reduction in steps or grade, or by dismissal.

Offences containing an Element of moral Turpitude.

14. Any pilot who shall wilfully make a false report of the circumstances attending the grounding, collision, injuring or loss of any vessel, or of the stores of any vessel, or on any point connected with his duty as a pilot, or who shall make or cause to be made a false muster-roll, or a false entry in the log-book of any pilot-vessel, or who shall wilfully neglect to make the proper entries in the log-book of such vessel when he is in duty bound to make them, shall be punished with suspension for a term not exceeding twelve months, or by dismissal.

15. Any pilot who shall commit, or connive at, any fraud, or offence against the laws relating to Customs or Excise, or who shall knowingly connive at the escape of any person against whom there has issued a warrant of arrest, shall be punished with suspension for a term not exceeding twelve months, or by dismissal.

N. B.—Reduction of pay is never to exceed one-half of the monthly salary or earnings.

In calculating the pay of licensed or free list pilots, the average earnings for the last three months to be taken, and one-half of the earnings of every month to be impounded till the total sum has been made good.

[a] RULES FOR THE COURT FOR THE TRIAL OF PILOTS UNDER ACT XII OF 1859.

Rule 1.—Whenever it shall appear to the Lieutenant-Governor or the Superintendent of Marine that any person employed in the pilot-service of Government or any licensed pilot ought to be brought to trial under the provisions of the above-mentioned Act, the Superintendent of Marine shall frame the charge or charges upon which such pilot is to be tried, and transmit a copy of the same to the Judge of the Court, who shall thereupon issue a notice, of not less than one day's duration, in the Form No. 1 appended, calling upon the prosecutor on behalf of Government

Marine-authorities or Government may pass orders upon charge of breach of duty where trial unnecessary.

21. Nothing contained in this Act shall be held to restrict the marine-authorities or the Government from passing such orders as may be deemed proper upon any charge of breach of duty preferred against any person employed in the said Pilot-service, when it shall not be deemed necessary that such person should be brought to trial for such breach of duty under the provisions of this Act.

Withdrawal of license from licensed pilot.

22. If any person licensed to act as a pilot when duly charged with breach of duty as aforesaid, shall refuse to submit himself to trial under the provisions of this Act, the license of such person shall be withdrawn, and he shall be incapable of being again licensed to act as a pilot at the said Presidency.

Act applicable to persons in Pilot-service and to licensed pilots.

23. The provisions of this Act shall extend to all persons employed in the Pilot-service at the said Presidency and borne on the rolls of the Government establishment, whether such persons receive fixed salaries, or are remunerated by a portion of the pilotage charged on the vessels piloted by them, or in any other manner, and to all persons licensed to act as pilots at the said Presidency.

under the said Act and the party accused to attend on him at a place and time appointed, for the purpose of appointing a jury under the 7th and 8th sections of the said Act.

Rule 2.—At the time and place appointed in the said notice, the Judge shall deliver to the prosecutor a copy of the charge or charges, and the accused shall be entitled to receive a copy thereof from the prosecutor on application.

Rule 3.—The jury having been appointed under the provisions of section 8 of the Act, the Judge shall by a summons under his hand in Form No. 2 summon them to appear at a time and place to be fixed by him for the trial, and shall by a summons in the Form No. 3 summon the accused to attend such trial; the time for such trial not being earlier than two days after the service of such summons. The summonses respectively shall be served either personally or by leaving the same at the place of business or of last known abode of the parties respectively.

Rule 4.—The course of proceedings at the trial shall be as follows or as near thereto as conveniently may be.

The jury shall be sworn in like manner as in the ordinary Courts of law.

The charge or charges shall then be read by the prosecutor. The defendant shall not be required to plead to such charge or charges, but the evidence shall be taken on the subject thereof, as though he had pleaded not guilty. The prosecutor shall then call the witnesses for the prosecution, who may be cross-examined by the accused, and re-examined and examined by the Judge and jury, according to the course and practice of the Supreme Court. The case for the prosecution having been closed, the accused shall be called upon for his defence. If not ready, the Judge may at his discretion grant the accused an extension of time or postponement, as the case may be. The accused in his defence may call witnesses on his part and address the Court either orally or in writing, and either before or after the examination of his witnesses. The prosecutor shall be entitled to cross-examine every witness for the defence, and the accused to re-examine such witness. At the close of the case for the accused, the prosecutor may address the Court in reply, if witnesses shall have been called by the accused in support of his statement; but not otherwise, unless by special permission of the Judge. The jury shall forthwith at the close of the case consider and deliver their verdict. Subject to section 19 of the said Act, the Judge may either pass sentence immediately or reserve his sentence, which sentence he may afterwards pass subsequently to the discharge of the jury.

Rule 5.—The forms for swearing the jury and the witnesses shall be as near those in use in the Supreme Court as may be.

Rule 6.—The Judge shall be at liberty to adjourn the Court for any specified object to such times and places, and from time to time, as he shall think necessary or expedient; and shall notify every such adjournment verbally to the jury, the prosecutor and the accused and any witnesses who shall be at such time in attendance, all of which several persons shall thereupon attend at every such adjourned time and place as though they had been specially summoned thereto.

ACT No. XXII OF 1860.

Received the Governor General's assent on the 21st of May 1860.

An Act to remove certain tracts on the eastern border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulation and Acts. [a]

WHEREAS it is expedient to remove the hilly and forest tracts of country situated on the eastern border of the district of Chittagong from the jurisdic- Preamble.

Rule 7.—The summons to witnesses shall be in the Form No. 4 or as near thereto as may be, and the same shall be served personally in all cases if practicable, and if not, shall be left at the place of business or abode of the party to whom it shall be addressed, or on board the ship to which he belongs with any person on duty on board; and the Judge shall, on the application of either the prosecutor or the accused before the trial (or during the same if he shall see fit), sign and issue summonses for such witnesses as they may respectively require, which summonses shall be served in the manner above required by the prosecutor or the accused as the case may be.

Rule 8.—In case it shall be made to appear to the Judge on an application by either the prosecutor or the accused that any material and necessary witness on any charge is about to leave the port of Calcutta, he shall issue to the parties so applying to him a summons for the attendance of such witness at some place and at the earliest reasonable time to be fixed in the summons, and the Judge shall thereupon immediately issue and send to the address of the other of such parties a notice in the Form No. 5 inviting his attendance at any such time and place on the occasion of the examination of any such witness to cross-examine him. In case of the non-attendance of such party after such notice, the Judge shall, on its being made to appear satisfactorily to him that such notice has reached the place of business or abode of such party, proceed with such examination without his attendance.

Rule 9.—The accused shall be allowed the assistance of a friend or professional adviser in the conduct of his defence, and such friend or professional adviser may, with the consent of the Judge, address the Court on the trial in lieu of the accused, provided the latter be present. But the Judge shall not recognize any written application relative to the trial or other proceedings except directly from the accused himself, and in no trial or other proceedings in which the accused himself is absent, shall the agency of such friend or professional adviser be admitted or recognized, unless in the case of illness of the accused supported by medical certificate, when on a written request by him to the Judge authorizing the appearance of any person on his behalf, the proceedings may be carried on in the presence of such person as though the accused were himself present.

Rule 10.—In cases of collision, where the pilots of both colliding vessels are brought to trial, there shall be one trial for both or a separate trial for each, according as the Judge in his discretion may determine.

Rule 11.—In case the accused shall not appear at the trial, and shall not satisfy the Judge that he has a reasonable cause for not appearing, the Court shall be at liberty to proceed in his absence to hear and determine the charge preferred against him; and the Judge may pass sentence thereon in such and the same manner as he might have done in case the accused had appeared and been arraigned in person on the said charge. Provided that in case the accused shall present himself before the conclusion of the trial, he shall be at liberty to cross-examine such witnesses as still remain to be examined on the part of the prosecution, and to make his defence to the charge or charges preferred against him in the usual manner, but shall not be at liberty, except by leave of the Judge, to reopen any of the proceedings which shall have taken place in his absence.

Rule 12.—Any application on behalf of a person summoned on a jury or as a witness or a defendant on any trial, and seeking to be excused attendance on the ground of illness must be supported by a medical certificate addressed to the Judge of the Court at the earliest opportunity.

Rule 13.—The jury or the Judge shall be at liberty to have recorded on the proceedings such remarks connected therewith as they may think fit to be brought to the notice of the authorities.

Rule 14.—Questions of law or procedure not herein specially provided for shall be determined so far as is practicable and reasonable in accordance with the rules of the Supreme Court in regard to similar or analogous matters.

[a] This Act will be repealed by Act No. XIV of 1874, when that Act is brought into force in Chittagong.

tion exercised by the civil, criminal and revenue Courts and offices of that district, under the general Regulations and Acts of the Government; It is enacted as follows:—

Certain tracts removed from operation of General Regulations and Acts.

1. The tracts of country described in the schedule to this Act are hereby removed from the jurisdiction of the Courts of civil and criminal judicature, and from the control of the offices of revenue constituted by the Regulations of the Bengal Code and the Acts passed by the Governor General of India in Council and the Legislative Council of India, as well as from the system of procedure prescribed for the said Courts and offices by the Regulations and Acts aforesaid; and no Act hereafter passed by the Legislative Council of India relative to the constitution or procedure of the said Courts and offices shall be deemed to extend to any part of the said tract, unless the same be specially named therein: provided that nothing herein contained shall extend to or affect any case now pending in any Court or office.

Proviso.

Administration of justice and collection of revenue vested in officers subject to control of Lieutenant-Governor of Bengal.

2. The administration of civil and criminal justice and the superintendence of the settlement and realization of the public revenue and of all matters relating to rent within the said tracts, are hereby vested in such officer or officers as the Lieutenant-Governor of Bengal may for the purpose of tribunals of first instance or of reference and appeal appoint, and the officer or officers so appointed shall, in the matter of the administration and superintendence aforesaid, be subject to the direction and control of the Lieutenant-Governor of Bengal, and be guided by such instructions as the Lieutenant-Governor of Bengal may from time to time issue.

Appeals.

3. It shall be lawful for the Lieutenant-Governor of Bengal to direct that an appeal may be heard in any of the matters described in the last preceding section by the civil and sessions Judge of Chittagong or the Commissioner of Revenue for that district, or by the Sadr Díwání and Nizámat Adálat or by the Board of Revenue, and to declare in what cases the order made by any officer or Court empowered by the Lieutenant-Governer to dispose of any of the matters aforesaid, shall be final.

Reference to Sadr Court.

4. It shall be lawful to the Lieutenant-Governor of Bengal to direct any officer empowered to administer criminal jurisdiction in or for the tracts aforesaid, to refer the sentence passed by him in any class of criminal trials for the confirmation of the Sadr Court; and no sentence of death passed by any person competent under the direction of the Lieutenant-Governor to pass such sentence, shall be carried into execution until it be confirmed by the Sadr Court. In disposing of any trial referred for disposal under this section, the Sadr Court shall not call for the fatwá of its law-officer, and shall pass such order as it may deem just and proper, so as that it shall not convict any person acquitted by the referring officer, or enhance any sentence pronounced by him.

Place of imprisonment or transportation.

5. Any person liable to be imprisoned in any civil or criminal jail or to be transported beyond sea under any order or sentence passed by any officer or Court empowered as provided in this Act, may be imprisoned in any civil or criminal jail or transported to any place which the Lieutenant-Governor of Bengal may direct.

Questions of disputed boundary to be determined by Commissioner.

6. When a question shall arise whether any place falls within the tracts described in the schedule of this Act, it shall be competent to the Commissioner of Revenue for the district of Chittagong to consider and determine on which side of the described boundary the place aforesaid may lie, and the order made by the Commissioner shall be final.

SCHEDULE.

The boundary of the tracts referred to in this Act and to which the provisions of Act XXII of 1860 shall be applicable, shall be understood generally to run to the eastward of the surveyed area of the villages situated on the eastern frontier of the Chittagong district, as surveyed and mapped in the course of the revenue-survey of that district, and shall be more particularly taken to be indicated as follows :—

As respects thánáFatikcharí, all the country lying east of the villages Rámgarh, Júzkola, Hápaniyá, Fakíráchang, Kanchanpur and Gumárítalá.

As respects thánáHáthazárí, all the country lying east of Magkatta, Rádhámádhabpur, and other surveyed villages of this thánáand of a line drawn from the south-eastern boundary to Gográ in phárí Ranganiyá.

As respects phárí Ranganiyá, all the country lying to the east of Gográ, Nichintápur, Kodálá, Paduá, Dúdh-Pukuriyá and other surveyed villages of this phárí, situated on both sides of the Karnaphúlí river.

As respects thánáPatiyá, all the country lying east of the surveyed villages of this thánáthat is to say, lying east of a line drawn from the eastern surveyed boundary of Dúdh-Pukuriyá in phárí Ranganiyá, drawn to the eastern surveyed boundary of the village Dúbácharí lying north of the river Shankhá.

As respects thánáSatkaniyá, all the country lying east of Púrangarh, Bardwárá, Andár Manik, Rájbárí, and other surveyed villages of this thánáá.

As respects thánáChakariyá, all the country lying eastward of a line drawn from the village Rájbárí in thánáTulkaniyá, to the surveyed villages Bunú and Bílcharí on the Morí river, in thánáChakariyá, and also all the country lying eastward of the surveyed villages of this thánábetween Bílcharí and Páglábíl.

As respects tháná Rámú, all the country lying east of a line drawn from Páglábíl in tháná Chakariyá, to Ídgarh, Garjáma and Kachipiyá in tháná Rámú.

As respects tháná Tek-Náf, all the country lying east of a line drawn from Kachipiyá, in tháná Rámú, to Páglábíl, Ratnápalong, Oáliyápalong, and Ukiya Ghát, as well as all to the east of the Náf river.

ACT No. XIX of 1867.

Received the Governor General's assent on the 8th of March 1867.

An Act to make further provision for the administration of justice in the District of Darjeeling.

Preamble. WHEREAS it is expedient to make further provision for the administration of justice in the District of Darjeeling; It is hereby enacted as follows:—

1.—[*Repealed by Act No. XVI of 1874.*]

High Court, Fort William, to exercise jurisdiction over Darjeeling. 2. The High Court of Judicature for the Bengal Division of the Presidency of Fort William shall have and exercise, with regard to the District of Darjeeling, all such jurisdiction and powers as it has and exercises with regard to any other territory.[a]

ACT No. XVI of 1869.

Received the Governor General's assent on the 23rd of July 1869.

An Act to exclude the ordinary civil Courts from the cognizance of suits relating to land in the Bhután Dvárs, and for other purposes.

Preamble. WHEREAS it is expedient to exclude the ordinary civil Courts from the cognizance of suits relating to immoveable property, revenue and rent in the territory ceded by the Government of Bhután to the British Government in the year 1866 and commonly known as the Bhután Dvárs; and whereas certain rules relating to immoveable property, revenue and rent in the said territory, and contained in the schedule to this Act, have been made by the Lieutenant-Governor of Bengal, and it is expedient that such rules should have the force of law; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Bhután Dvárs Act, 1869."

[a] *i. e.*, outside the local limits of its ordinary original civil jurisdiction.

Abolition of civil Courts' jurisdiction as to immoveables in Dvárs.

2. The jurisdiction which the ordinary civil Courts of judicature have hitherto had and exercised in respect of suits (whether instituted before or after the passing of this Act) and other matters connected with immoveable property, revenue and rent in the said territory shall cease.

Jurisdiction by whom exerciseable.

3. Such jurisdiction shall be exercised by such officers and within such local limits as the Lieutenant-Governor of Bengal shall from time to time appoint in this behalf.

4.—[*Repealed by Act No. XVI of 1874.*]

Validation of rules.

5. The rules contained in the schedule to this Act shall be deemed to have the force of law.

Power to make additional rules.

6. The said Lieutenant-Governor may from time to time make additional rules consistent with this Act and the schedule hereto for the guidance of officers in matters connected with the enforcement of this Act and the rules contained in the said schedule.

Such additional rules shall be published in the *Calcutta Gazette*, and shall thereupon have the force of law.

SCHEDULE.

Rules relating to immoveable Property, Rent and Revenue, in the Bhután Dvárs.

I. At a reasonable time before any officer appointed under section 3 of the Bhután Dvárs Act, 1869, shall commence his enquiries in any revenue-survey circuit or other convenient tract of country, a notice shall be published in such tract calling on all interested in the suits and matters mentioned in section 2 of the said Act, to come forward and advance their claims and protect their interests before the said officer.

II. In the investigation of such suits and matters, the said officer shall be guided by the provisions of Regulation VII of 1822,[a] and shall exercise all the powers conferred upon a Collector making a settlement of land-revenue by that Regulation and all other Regulations and Acts amending the same, in addition to the powers vested in him by these rules.

III. The said officer shall make a record in such form as the Lieutenant-Governor may direct, of all rights, interests and other matters which he is empowered by these rules to investigate, ascertain and determine.

IV. The said officer shall ascertain the position as to rights and interests connected with the soil which each person *bonâ fide* occupied before the state

[a] See *supra*, p. 178.

of things was affected by the Bhután war, and, subject to due regard for considerations of public policy, confirm him in that position: he shall take cognizance of, and decide, all disputes, conflicting claims and doubtful questions which then existed: Provided that he shall not take cognizance of any right or interest which, being capable of exercise or assertion within twelve years before the date on which the Bhután Dvárs were transferred to the British Government, had not been exercised or asserted during the period.

V. As soon as the record-of-rights for any tract as mentioned in rule III is completed, the said officer shall cause it to be published in the tract, and a second copy shall be open for inspection at his office, of which fact due notice shall be given.

VI. Within one month of such publication, any person who is dissatisfied with any entry in the record, which has not been adjudicated upon by the said officer, may present a petition to such officer, who shall thereupon proceed to try the questions in dispute.

VII. Any person aggrieved by any decision or order of the said officer may appeal by petition to the Commissioner of the division, or to any other officer specially appointed by the Lieutenant-Governor to be a Commissioner in that behalf: Provided that such appeal be presented within three months of the date of the decision or order appealed against, unless sufficient cause for longer delay be shewn to the satisfaction of the Commissioner.

VIII. The said officer may, within one month of the passing of any decision or order by him, admit to review any such decision or order, and eventually amend, vary or correct the same: Provided that no appeal have been preferred against such order or decision to the appellate authority as defined in rule VII.

IX. The appellate authority may, within one month of the passing of any decision or order by such appellate authority on appeal, admit to review any such decision or order.

X. No appeal shall lie as of right to any authority against any order passed by the appellate authority under these rules, but, notwithstanding anything to the contrary in these rules, the Lieutenant-Governor of Bengal may, if he think fit, alter, vary or annul any decision or order which may have been passed under these rules: Provided that an application in that behalf shall have been made before or within one month after the issue of the notification of confirmation of the record under rule XI.

XI. When the record of any circuit or other tract, as mentioned in rule III, shall have been finally revised and amended in accordance with all orders passed by the said officer or the Commissioner of the division under these

rules, the record shall be confirmed by an order of the Commissioner of the division to be published in the *Calcutta Gazette*.

XII. From the date of the publication of such confirmation, the said record shall not be varied or altered otherwise than by an order of the Lieutenant-Governor under rule X, and such record shall be conclusive evidence as to any right, interest, or other matter which may be entered on it in accordance with the provisions of these rules.

ACT No. XXVIII OF 1870.

Received the Governor General's assent on the 16th of December 1870.

An Act to authorize the committal of European British subjects by Courts in the Andamans to the High Court at Fort William.

Preamble.

WHEREAS Act No. XXI of 1863 (*to constitute Recorders' Courts for the Towns of Akyab, Rangoon and Maulmain in British Burma, and to establish Courts of Small Causes in the said towns*), section forty-one, enacts that European British subjects arrested for, or guilty of, certain offences in the Tenasserim provinces shall be committed to, and tried by, the Recorder at Maulmain; And whereas the Andaman Islands form part of the said provinces; And whereas it is expedient that the jurisdiction so given to the Recorder at Maulmain should, so far as regards the said Islands, be transferred to the High Court of Judicature at Fort William; It is hereby enacted as follows:—

European British subject charged in Andamans with certain offences to be committed to High Court, Fort William.

1. Every European British subject charged in the Andaman Islands with any offence which a Justice of the Peace is not competent to punish, shall, if there be sufficient grounds for committing him for trial, be committed to, and tried by, the said High Court in the exercise of its ordinary original criminal jurisdiction.

THE BENGAL CIVIL COURTS ACT, 1871.

CONTENTS.

Preamble.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
 Local extent.
 Partial exclusion of Mufassal Small Cause Courts.
2. [*Repealed.*]

CHAPTER II.

CONSTITUTION OF CIVIL COURTS.

3. Number of District Judges.
4. Number of Subordinate Judges and Munsifs.
5. Vacancies in District Judgeships.
6. Vacancies in Munsifships.
7. Additional Judges.
8. Temporary charge of District Judgeship.
9. Transfer of proceedings on death, &c., of Subordinate Judge.
 Temporary charge of Munsifship.
10. Power to confer judicial powers on officers in Káchár, Assam, Chutiá Nágpur and Kúch Bihár.
11. Control of civil Courts in District.
12. First District Judges, Additional Judges, Subordinate Judges and Munsifs.
13. [*Repealed.*]
14. Seals of Courts.
15. District Judges, Subordinate Judges and Munsifs to be deemed civil Courts.
16. Power to fix sites of Courts.
17. Vacation.

CHAPTER III.

ORDINARY JURISDICTION.

18. Power to fix local limits of jurisdiction.

SECTIONS.

19. Extent of original jurisdiction of District Judge or Subordinate Judge.
20. Extent of Munsif's jurisdiction.
21. Appeals from District Judges and Additional Judges.
22. Appeals from Subordinate Judges and Munsifs.
23. [*Repealed.*]
24. Certain decisions to be according to Native law.
25. Judges not to try suits in which they are interested.

CHAPTER IV.

SPECIAL JURISDICTION.

26. Power to refer to Subordinate Judges appeals from Munsifs.
27. Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Judge.
28. Disposal of proceedings so transferred.
29. Power to invest Subordinate Judges with small cause jurisdiction.
30. Amendment of Act No. XI of 1865, section 51.

CHAPTER V.

MISFEAZANCE.

31. Suspension or removal of District Judge or Additional Judge.
32. Suspension of Subordinate Judge.
33. Suspension of Munsifs by High Court.
34. Suspension of Munsifs by District Judges.

CHAPTER VI.

MINISTERIAL OFFICERS.

35. Appointment and removal of ministerial officers of District Courts.
36. Appointment and removal of ministerial officers of Subordinate Judges and Munsifs.
Power to punish such officers.
37. Transfer of ministerial officers.
38. Recovery of fines.

ACT No. VI of 1871.

Received the Governor General's assent on the 10th of February 1871.

An Act to consolidate and amend the law relating to the District and Subordinate Civil Courts in Bengal.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the District and Subordinate Civil Courts in the territories respectively under the governments of the Lieutenant-Governors of the Lower and North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Bengal Civil Courts Act, 1871."

Local extent.

It extends to the territories for the time being respectively under the governments of the said Lieutenant-Governors, except such portions thereof as for the time being are not subject to the ordinary jurisdiction of the High Courts and except the Jhánsí Division.

Partial exclusion of Mufassal Small Cause Courts.

Except this section and sections seventeen, twenty-nine and thirty, nothing herein contained applies to Courts of Small Causes established under Act No. XI of 1865.

2.—[*Repealed by Act No. XII of 1873.*]

CHAPTER II.

CONSTITUTION OF CIVIL COURTS.

Number of District Judges.

3. The number of District Judges to be appointed under this Act shall be fixed, and may from time to time be altered, by the Local Government.

Number of Subordinate Judges and Munsifs.

4. The number of Subordinate Judges and Munsifs to be appointed under this Act in each district, shall be fixed, and may from time to time be altered, by the Local Government.

Vacancies in District Judgeships.

5. Whenever the office of District Judge or Subordinate Judge under this Act is vacant, or whenever the Governor General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges, the Local Government shall supply such vacancy or appoint such additional District Judges or Subordinate Judges, as the case may be.

Vacancies in Munsifships.

6. Whenever the office of a Munsif is vacant, or when the Governor General in Council has sanctioned an increase of the number of Munsifs, the High

Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly:

Provided that the Local Government may, with the sanction of the Governor General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif under this Act; and on such rules being made, no person shall be nominated to such office unless he possesses the qualifications required by the said rules.

Additional Judges.

7. When the business pending before any District Judge requires the aid of Additional Judges for their[a] speedy disposal, the Local Government may, upon the recommendation of the High Court, and subject to the sanction of the Governor General in Council, appoint such Additional Judges as may be requisite.

Such Additional Judges shall perform any of the duties of a District Judge under chapter III of this Act that the District Judge may, with the sanction of the High Court, assign to them, and in the performance of such duties they shall exercise the same powers as the District Judge.

Temporary charge of District Judgeship.

8. In the event of the death of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the station in which his Court is held, the Additional Judge, or, if there is no Additional Judge attached to such Court, the senior Subordinate Judge of the district shall, without relinquishing his ordinary duties, assume charge of the Judge's office,

and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the issue of processes and the like functions,

and shall continue in charge of the office until it is resumed by the District Judge or assumed by an officer duly appointed thereto.

Transfer of proceedings on death, &c., of Subordinate Judge.

9. In the event of the death of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence on leave when no person is appointed to act for him,

the District Judge may transfer all or any of the proceedings pending in the Court of such Subordinate Judge either to his own Court or to the Court of a Subordinate Judge (if any) under his control.

All proceedings transferred under this section shall be disposed of as if they had been instituted in the Court to which they are so transferred.

Temporary charge of Munsifship.

A District Judge, on the occurrence within his district of any vacancy in the office of Munsif, may, pending the action of the High Court under section six, appoint such person as he thinks fit to act in such office.

[a] *Sic.* Read 'its.'

And he shall forthwith report to the High Court the occurrence of every such vacancy and such appointment.

Power to confer judicial powers on officers in Káchár, Assam, Chutiá Nágpúr and Kúch Bihár.

10. The Local Government may invest with the powers of any Court under this Act any officer in the district of Káchár and the divisions of Assam, Chutiá Nágpúr and Kúch Bihár.

Nothing in sections three to nine (inclusive), thirty-two, thirty-three and thirty-four applies to any such officer. But all the other provisions of this Act apply, *mutatis mutandis*, to officers so invested.

Control of civil courts in district.

11. The general control over all the civil Courts in any district is vested in the District Judge, but subject to the superintendence of the High Court.

First District, Additional and Subordinate Judges and Munsifs.

12. The present Judges of the zila Courts, Additional Judges, Subordinate Judges and Munsifs shall be deemed to have been duly appointed to the offices the duties of which they have respectively discharged, and shall be the First District Judges, Additional Judges, Subordinate Judges and Munsifs under this Act.

13.—[*Repealed by Act No. X of 1873.*]

Seals of Courts.

14. Every Court under this Act shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government.

Judges and Munsifs deemed civil Courts.

15. Every District Judge, Additional Judge, Subordinate Judge and Munsif under this Act shall be deemed to be a civil Court within the meaning of the Code of Civil Procedure and of this Act.

Power to fix sites of Courts.

16. The Local Government may fix, and from time to time alter, the place or places at which any Court under this Act is to be held.

Vacation.

17. Subject to such orders as may from time to time be issued by the Governor General in Council, the High Court shall prepare a list of days to be observed in each year as close holidays in the Courts subordinate thereto.

Such list shall be published in the local official Gazette, and the said days shall be observed accordingly.

CHAPTER III.

Ordinary Jurisdiction.

Power to fix local limits of jurisdiction.

18. The Local Government shall fix, and may from time to time vary, the local limits of the jurisdiction of any civil Court under this Act:

Provided that, where more than one Subordinate Judge is appointed to any district, and where more than one Munsif is appointed to any munsifí, the Judge of the District Court may assign to each such Subordinate Judge or Munsif the local limits of his particular judisdiction within such district or Munsifí, as the case may be.

The present local limits of the jurisdiction of every civil Court (other than the High Court) shall be deemed to be fixed under this Act.

Extent of original jurisdiction of District or Subordinate Judge.

19. The jurisdiction of a District Judge or Subordinate Judge extends, subject to the provisions in the Code of Civil Procedure, section six,[a] to all original suits cognizable[b] by the civil Courts.

Extent of Munsif's jurisdiction.

20. The jurisdiction of a Munsif extends to all like suits in which the amount or value of the subject-matter in dispute[c] does not exceed one thousand rupees.

Appeals from District and Additional Judges.

21. Appeals from the decrees and orders of District Judges and Additional Judges shall, when such appeals are allowed by law, lie to the High Court.

Appeals from Subordinate Judges and Munsifs.

22. Appeals from the decrees and orders of Subordinate Judges and Munsifs shall, when such appeals are allowed by law, lie to the District Judge, except where the amount or value of the subject-matter in dispute exceeds five thousand rupees, in which case the appeal shall lie to the High Court:

Provided that the High Court may from time to time, with the previous sanction of the Local Government, order that all appeals from the decrees and orders of any Munsif shall be preferred to the Court of such Subordinate Judge as may be mentioned in the order, and such appeals shall thereupon be preferred accordingly.

23.—[*Repealed by Act No. XII of 1873.*]

Certain decisions to be according to Native law.

24. Where in any suit or proceeding it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished.

In cases not provided for by the former part of this section, or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

Judges not to try suits in which they are interested.

25. No Munsif, Subordinate Judge, Additional Judge or District Judge shall try any suit in which he is a party or personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

No Subordinate Judge, Additional Judge or District Judge shall try any appeal against a decree or order passed by himself in another capacity.

[a] *i. e.*, sections 15 and 25 of Act No. X of 1877.

[b] for the time being.

[c] 18 Suth. C. R. 268—9.

When any such suit, proceeding or appeal comes before any such Munsif, Subordinate Judge, Additional Judge or District Judge, he shall forthwith transmit the whole record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure, section six.[a]

Nothing in the last preceding clause of this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

CHAPTER IV.

SPECIAL JURISDICTION.

Power to refer to Subordinate Judges appeals from Munsifs.

26. Every District Judge may from time to time, subject to the orders of the High Court, refer to any Subordinate Judge under his control any appeals pending before him from the decisions of Munsifs; and such Subordinate Judge shall hear and dispose of such appeals accordingly.

The District Judge may withdraw any appeals so referred and hear and dispose of appeals so withdrawn.

Transfer to Subordinate Judge or Munsif of appeals and proceedings pending before District Judge.

27. The High Court may from time to time, by order, authorize any District Judge to transfer to a Subordinate Judge under his control appeals from orders of Munsifs preferred under the Code of Civil Procedure, sections 36, 76, 85, 94, 119, 231 and 257, or under Act XXIII of 1861, section 11.[b]

The High Court may also, from time to time, by order, authorize any District Judge to transfer to a Subordinate Judge or Munsif under the control of such District Judge any of the proceedings next hereinafter mentioned, or any class of such proceedings specified in such order, and then pending, or thereafter instituted, before such District Judge.

The proceedings referred to in the second clause of this section are the following (that is to say),—

(1). Proceedings under Bengal Regulation V. 1799[c] *(to limit the interfer-*

[a] Now Act No. X of 1877, section 25.

[b] These appeals are now preferred, respectively, under Act No. X of 1877, section 333 (= Act VIII of 1859, section 231), and under the same Act, section 588, clause *d* (as to orders rejecting plaints), clause *f* (as to orders rejecting applications under section 103 to set aside dismissals of suits), clause *j* (as to questions arising in execution of decrees), clause *m* (as to orders confirming or setting aside sales) and clause *r* (as to orders, 1, to give bail for appearing, 2, for the attachment of property before judgment, and 3, granting injunctions).

[c] See *supra*, p. 63.

ence of the Zila and City Courts of Diwání Adálat in the execution of wills and administration to the estates of persons dying intestate).

(2) Proceedings under Act No. XL of 1858 [a] (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*), or Act No. IX of 1861 [b] (*to amend the law relating to minors*).

(3). Claims to attached property under the Code of Civil Procedure, section 278.

(4). Applications by judgment-debtors under section 344 of the same Code.

(5). Applications to file awards under section 525 of the same Code.

(6). Applications for permission to sue or appeal as a pauper.

(7). Applications for certificates under Act No. XXVII of 1860 [c] (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*).

The District Judge may withdraw any proceedings so transferred and may either himself dispose of them, or, with the sanction of the High Court, transfer them to any other Subordinate Judge or Munsif under his control.

Disposal of proceedings so transferred.

28. Subject to the provisions of the last clause of section twenty-seven, all proceedings transferred under the second clause of the same section shall be disposed of by the Subordinate Judge or Munsif (as the case may be) according to the rules prescribed for the guidance of District Judges in like cases:

Provided that an appeal from the order of the Subordinate Judge or Munsif in such cases shall lie to the District Judge.

An appeal from his order thereon shall lie to the High Court if an appeal from the decision of the Judge in such proceedings is allowed by the law in force for the time being.

Power to invest Subordinate Judges with small cause jurisdiction.

29. The Local Government may invest, within such local limits as it from time to time appoints, any Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts, up to the amount of five hundred rupees, and any Munsif with similar jurisdiction up to the amount of fifty rupees; and may, whenever it thinks fit, withdraw such jurisdiction from the Subordinate Judge or Munsif so invested.

Amendment of Act No. XI of 1865.

30. Section 51 of Act No. XI of 1865 (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary*

[a] See *supra*, p. 344.

[b] See General Acts, vol. I, p. 528.

[c] See General Acts, vol. I, p. 352.

original civil jurisdiction of the High Courts of Judicature) shall be read as if, for the words "Principal Sadr Amín," the words "Subordinate Judge" were substituted.

CHAPTER V.

MISFEAZANCE.

Suspension or removal of Judges.

31. Any District Judge, Additional Judge, Subordinate Judge or Munsif may, for any misconduct, be suspended or removed by the Local Government.

Suspension of Subordinate Judge.

32. The High Court may, whenever it sees urgent necessity for so doing, suspend any Subordinate Judge under its control.

Whenever the High Court exercises this power, it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order thereon as it thinks fit.

Suspension of Munsifs by High Court.

33. The High Court may appoint a commission for enquiring into the alleged misconduct of any Munsif.

On receiving the report of the result of any such enquiry, the High Court may, if it thinks fit, remove the Munsif from office, or suspend him, or reduce him to a lower grade.

The provisions of Act No. XXXVII of 1850[a] (*for regulating enquiries into the behaviour of public servants*) shall apply to enquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

The High Court may also, previous to the appointment of such commission, suspend any Munsif pending the result of the enquiry.

The High Court may, without appointing any such commission, remove or suspend any Munsif, or reduce him to a lower grade.

Suspension of Munsifs by District Judge.

34. Any District Judge may, whenever he sees urgent necessity for so doing, suspend from office any Munsif under his control.

Whenever a District Judge suspends from office any such Munsif, he shall forthwith send to the High Court a full report of the circumstances of the suspension, together with the evidence, if any, and the High Court shall make such order thereon as it thinks fit.

CHAPTER VI.

MINISTERIAL OFFICERS.

Appointment and removal of ministerial

35. The Judges of the District Courts shall appoint the ministerial officers of such Courts, and, subject only to the general control of the Local

[a] See General Acts, vol. I, p. 97.

Government, the said Judges may remove or suspend such officers or fine them in an amount not exceeding one month's salary. officers of District Courts.

36. The ministerial officers of the Courts of Subordinate Judges and Munsifs shall be nominated and appointed by those Courts respectively, subject to the approval of the District Judge within whose jurisdiction such Courts are situate. Appointment and removal of ministerial officers of Subordinate Judges and Munsifs.

Every such Court may, by order, remove or suspend from office, or fine in an amount not exceeding one month's salary, any of its ministerial officers who is guilty of any misconduct or neglect in the performance of the duties of his office. And the District Judge, subject only to the general control of the Local Government, may on appeal or otherwise reverse or modify every such order. Power to punish such officers.

The District Judge, within whose jurisdiction such Court is situate, may, by order, suspend or remove any such ministerial officer.[a]

Nothing in this section or in section thirty-five shall exempt the offender from any penal or other consequences to which he may be liable under any other law in force for the time being.

37. The Local Government may, at the instance of the District Judge, transfer from any Court in the territories subject to such Government, to any other Court in the same territories, all or any of the ministerial officers of such Judge or of any Subordinate Judge or Munsif under his control. Transfer of ministerial officers.

The District Judge may transfer all or any of the ministerial officers of any Court under his control to any other such Court.

38. Any fine imposed under this chapter shall, if the order imposing it so directs, be recovered by deduction from the offender's salary. Recovery of fines.

ACT No. XIX OF 1871.

Received the Governor General's assent on the 12th of May 1871.

An Act to provide for the appointment of Sessions Judges in Bengal and the North-Western Provinces.

WHEREAS it is expedient to provide for the appointment of Sessions Judges in the territories respectively under the Governments of the Lieutenant- Preamble.

[a] See Act No. XIX of 1877.

Governors of the Lower and North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

1 to 6.—[*Repealed by Act No. X of 1872.*]

Indemnity-clause.

7. No judgment heretofore given, order passed, or proceeding had before any person who at any time has been appointed a Sessions Judge or Additional Sessions Judge or who has been empowered to act as such in Bengal or the North-Western Provinces, shall be deemed to be or to have been invalid, and no suit shall lie in any Court in respect of any such judgment, order or proceeding merely on the ground that such Sessions Judge or Additional Sessions Judge or person empowered to act as such was not appointed or empowered in conformity to law.

ACT No. IV OF 1876.

Received the Governor General's assent on the 8th of February 1876.

An Act to authorise Revenue Agents to practise in certain suits in the Munsif's Courts of the Lower Provinces of Bengal.

Preamble.

WHEREAS, by Act No. XX of 1865, Revenue Agents are now prohibited from practising in civil Courts; and it is expedient to authorise them to practise in Munsif's Courts in suits under Bengal Act No. VIII of 1869 [a] *(to amend the procedure in suits between Landlords and Tenants)*; It is hereby enacted as follows:—

Revenue Agents may act in Munsif's Courts in suits under Bengal Act VIII of 1869.

1. Notwithstanding anything contained in the said Act No. XX of 1865, all persons duly admitted and enrolled as Revenue Agents under the same Act, in the territories subject to the Lieutenant-Governor of Bengal, may appear, plead and act in Munsif's Courts in suits under Bengal Act No. VIII of 1869. *(to amend the procedure in suits between Landlords and Tenants)*, or under any other Act for the time being in force regulating the procedure in such suits.

[a] See *infra*.

THE CHUTIÁ NÁGPUR ENCUMBERED ESTATES ACT, 1876.

CONTENTS.

PREAMBLE.

SECTIONS.

I.—PRELIMINARY.

1. Short title.

II.—VESTING ORDER.

2. Power to vest management of property in an officer appointed by Commissioner.
3. Effect of order.
 Bar of suits.
 Freedom from arrest
 Moveable property not liable to attachment for prior debts.
 Cessation of power to alienate.
 Immoveable property freed from attachment.
 Cessation of power to contract.

III.—DUTIES OF MANAGER.

4. Manager to receive rents and profits, and pay therefrom—
 a, the Government demand,
 b, rent due to superior landlord,
 c, for maintenance of holder of property and his heir,
 d, costs of repairs and improvements,
 e, costs of management, and
 f, the debts and liabilities.

IV.—SETTLEMENT OF DEBTS.

5. Notice to claimants against holder of property.
 Notice how published.
6. Claim to contain full particulars.
 Documnents to be given up.
 Entries in books.
 Exclusion of documents not produced.
7. Debt not duly notified to be barred.
 Admission of claim within further period.
8. Determination of debts.
9. Power to inquire into consideration for leases.
 Power to set aside leases.

SECTIONS.

10. Appeal to Deputy Commissioner.
Appeal to Commissioner.
11. Scheme for settlement of debts.
Power to return scheme for revision.
12. Restoration of owner to his property.
Restoration to be notified.
Revival of barred proceedings and debts.
Reinstatement of mortgagees.
Period of limitation as to revived proceedings and debts.

V.—POWERS OF MANAGER.

13. Power to call for further particulars.
14. Power to summon witnesses and compel production of documents.
15. Investigation to be deemed a judicial proceeding.
Statements of persons examined to be evidence.
16. Manager to have powers of holder of estate.
Power to remove mortgagee or conditional vendee in possession.
17. Power to lease.
18. Power to raise money by mortgage or sale.
Manager's receipts.

VI.—MISCELLANEOUS.

19. Power to make rules.
20. Power to appoint new managers.
21. Managers to be public servants.
22. Bar of suits.
23. Saving of jurisdiction of Courts in Chutiá Nágpur in respect of certain suits.
24. Act not to affect powers conferred by Bengal Act II of 1869.

ACT No. VI OF 1876.

Received the Governor General's assent on the 14th of March 1876.

An Act to relieve certain Landholders in Chutiá Nágpur.

Preamble. WHEREAS it is expedient to provide for the relief of holders of land in Chutiá Nágpur who may be in debt, and whose immoveable property may be subject to mortgages, charges and liens; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title. 1. This Act may be called "The Chutiá Nágpur Encumbered Estates Act, 1876."

II.—Vesting Order.

Power to vest management of property in an officer appointed by Commissioner.

2. Whenever any holder of immoveable property,

or (when such holder is a minor, or of unsound mind, or an idiot) his guardian, committee or other legal curator,

or the person who would be heir to such holder if he died intestate,

or (when such person is a minor, or of unsound mind, or an idiot) his guardian, committee or other legal curator,

or, when any such property belonging to such holder has been attached in execution of a decree of a civil Court, the Deputy Commissioner within whose jurisdiction such property is situate,

applies in writing to the Commissioner, stating that the holder of the said property is subject to, or that his said property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, and requesting that the provisions of this Act be applied to his case,

the Commissioner may, with the previous consent of the Lieutenant-Governor of Bengal, by order published in the *Calcutta Gazette*, appoint an officer (hereinafter called the manager), and vest in him the management of the whole or any portion of the immoveable property of or to which the said holder is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him or his heir, during the continuance of such management.

Effect of order.

3. On such publication the following consequences shall ensue:—

Bar of suits.

First, all proceedings which may then be pending in any civil Court in British India, in respect to such debts or liabilities, shall be barred; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void;

Freedom from arrest.

Secondly, so long as such management continues,

the holder of the said property and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the said holder was immediately before the said publication subject, or with which the property so vested as aforesaid or any part thereof was at the time of the said publication charged, other than debts due, or liabilities incurred, to Government,

Moveable property not attachable for prior debts.

nor shall their moveable property be liable to attachment or sale, under process of any civil Court in British India, for or in respect of such debts and liabilities other than as aforesaid; and

Cessation of power to alienate.

Thirdly, so long as such management continues,

(*a*) the holder of the said immoveable property and his heir shall be incompetent to mortgage, charge, lease or alienate their immoveable property or

any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom,

Immoveable property freed from attachment.

(*b*) such property shall be exempt from attachment or sale under such process as aforesaid, except for or in respect of debts due, or liabilities incurred, to Government, and

Cessation of power to contract.

(*c*) the holder of the same property and his heir shall be incapable of entering into any contract which may involve them, or either of them, in pecuniary liability.

III.—Duties of Manager.

Manager to receive rents and profits,

4. The manager shall, during his management of the said immoveable property, receive and recover all rents and profits due in respect thereof; and shall, upon receiving such rents and profits, give receipts for the same.

and pay therefrom—

From the sums so received, he shall pay—

the Government demand,

First, the Government revenue, and all debts or liabilities for the time being due or incurred to Government:

rent due to superior landlord,

Secondly, in the case of under-tenures, the rent (if any) due to the superior landlord, in respect of the said property:

for maintenance of holder and his heir,

Thirdly, such annual sum as appears to the Commissioner requisite for the maintenance of the holder of the property, his heir, and their families:

costs of repairs and improvements,

Fourthly, the costs of such repairs and improvements of the property as appear necessary to the manager and are approved by the Commissioner:

costs of management and debts and liabilities.

and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the holder of the property and his heir, as may be established under the provisions hereinafter contained.

IV.—Settlement of Debts.

Notice to claimants against holder of property.

5. On the publication of the order vesting in him the management of the said property, the manager shall publish a notice in English, Urdu and Hindí, calling upon all persons having claims against the holder of the said property to notify the same in writing to such manager within three months from the date of the publication.

Notice how published.

Such notice shall be published by being posted at the kachahrís in the district or districts in which the said property lies, and at such other places as the manager thinks fit.

Claim to contain full particulars.

6. Every such claimant shall, along with his claim, present full particulars thereof.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the manager along with the claim. Documents to be given up.

If the document be an entry in any book, the claimant shall produce the book to the manager, together with a copy of the entry on which he relies. The manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant. Entries in books.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the manager along with the claim, the manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case. Exclusion of documents not produced.

7. Every debt or liability other than debts due, or liabilities incurred, to Government or (in the case of under-tenures) the rent due to the superior landlord, to which the holder of the property is subject, or with which the property is charged, and which is not duly notified to the manager within the time and in manner hereinbefore mentioned, shall be barred: Debt not duly notified to be barred.

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of sections five and six, the manager may admit his claim within the further period of nine months from the expiration of the said period of three months. Admission of claim within further period.

8. The manager shall, in accordance with the rules to be made under this Act, determine the amount of all principal debts and liabilities justly due to the several creditors of the holder of the property, and to persons holding mortgages, charges or liens thereon, and the interest (if any) due at the date of such determination in respect of such debts and liabilities. Determination of debts.

9. If such property or any part thereof be in the possession of any person claiming to hold it under a lease dated within the three years immediately preceding the publication of the order mentioned in section two, the manager, with the sanction of the Deputy Commissioner and Commissioner (or of the Commissioner only if the Deputy Commissioner be himself the manager), may inquire into the sufficiency of the consideration for which the lease was given; and if such consideration appear to him insufficient, may by order either set aside the lease or cause the person so in possession to pay such consideration for the said lease as the manager thinks fit, and in default of such payment the lease shall be cancelled. Power to inquire into consideration for leases. Power to set aside leases.

10. An appeal against any refusal, admission, determination or order under section six, seven, eight or nine shall lie, if preferred within six weeks from the date thereof, to the Deputy Commissioner within whose jurisdiction the property is situate, and the decision of the manager, if no such appeal has been so preferred, shall be final: Appeal to Deputy Commissioner.

Provided that if the Deputy Commissioner be himself the manager, the appeal shall lie to the Commissioner.

Appeal to Commissioner.

An appeal shall lie from any decision of the Deputy Commissioner, if preferred within six weeks of the date of his decision, to the Commissioner, and the decision of such Commissioner, or of the Deputy Commissioner if no such appeal has been so preferred, shall be final.

Scheme for settlement of debts.

11. When the amount due in respect of the debts and liabilities mentioned in section eight has been finally determined; the manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the Commissioner, shall be carried into effect.

Power to return scheme for revision.

Until such approval is given, the Commissioner may, as often as he thinks fit, send back such scheme to the manager for revision, and direct him to make such further inquiry as may be requisite for the proper preparation of the scheme.

Restoration of owner to his property.

12. When all such debts and liabilities have been discharged,

or if, within twelve [a] months after the publication of the order mentioned in section two, the Commissioner thinks that the provisions of this Act should not continue to apply to the case of the holder of the said property or his heir,

such holder or his heir shall be restored to the possession and enjoyment of the property, or of such part thereof as has not been sold by the manager under the power contained in section eighteen, but subject to the leases and mortgages (if any) granted and made by the manager under the powers hereinafter contained.

Restoration to be notified.

Where the holder of the property or his heir is so restored under the circumstances mentioned in the second clause of this section, such restoration shall be notified in the *Calcutta Gazette*, and thereupon the proceedings, processes, executions and attachments mentioned in section three (so far as they relate to debts and liabilities which the manager has not paid off or compromised), and the debts and liabilities barred by section seven, shall be revived;

Revival of barred proceedings and debts.

Reinstatement of mortgagees.

and any mortgagee or conditional vendee dispossessed under section sixteen shall be reinstated, unless his claim under the mortgage or conditional sale has been satisfied;

Period of limitation as to revived proceedings and debts.

and in calculating the periods of limitation applicable to such revived proceedings, and to suits to recover and enforce such revived debts and liabilities the time intervening between such restoration and the publication of the order mentioned in section two shall be excluded.

[a] See Act No. XII of 1877, *infra*.

V.—Powers of Manager.

Power to call for further particulars.

13. The manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

Power to summon witnesses and compel production of documents.

14. For the purposes of this Act, the manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a civil Court by the Code of Civil Procedure.

Investigation to be deemed a judicial proceeding.

15. Every investigation conducted by the manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

Statements of persons examined to be evidence.

And every statement made by any person examined by or before the manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

Manager to have powers of holder of estate.

16. The manager shall have, for the purpose of realizing and recovering the rents and profits of the said immoveable property, the same powers as the holder of the property would have had for such purpose if this Act had not been passed.

Power to remove mortgagee or conditional vendee in possession.

And if such property, or any part thereof, be in the possession of any mortgagee or conditional vendee, the manager may apply to the Court of the Deputy Commissioner within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the manager as if a decree therefor had been made in his favour, but without prejudice to the mortgagee or vendee preferring his claim under the provisions hereinbefore contained.

Power to lease.

17. Subject to the rules made under section nineteen, the manager shall have power to demise all or any part of the property under his management for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

Power to raise money by mortgage or sale.

18. The manager, with the previous assent of the Commissioner, shall have power to raise any money which may be required for the settlement of the debts and liabilities (other than as aforesaid) to which the holder of the property is subject, or with which such property or any part thereof is charged,

by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

or by selling, with the previous consent of the holder of the property and of the person (being of full age) who would be his heir if he died intestate,

by public auction or by private contract, and upon such terms as the manager thinks fit, such portion of the same property as may appear expedient.

And no mortgagee advancing money upon any mortgage made under this section, shall be bound to see that such money is wanted, or that no more than is wanted is raised.

Manager's receipts.

And the receipt of the manager for any monies paid to him as such, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

The power to mortgage conferred by this section shall not be exercisable until six months have elapsed from the publication of the order mentioned in section two.

VI.—Miscellaneous.

Power to make rules.

19. The Lieutenant-Governor of Bengal may, from time to time, make rules consistent with this Act to regulate the following matters :—

(*a*) the security to be required from subordinate officers under this Act,

(*b*) the notices to be given under this Act and the publication of such notices,

(*c*) the procedure to be followed in determining under section eight the debts and liabilities due to creditors and other persons, and in performing the other duties imposed on any officer by this Act,

(*d*) the allowance of interest on each of the principal debts and liabilities so determined, from the date on which it was incurred down to the date of the determination, and on the aggregate amount of such debts and liabilities from the date of the determination down to the date of payment,

(*e*) the order of paying debts and liabilities so determined ;

and generally for the guidance of officers in all matters connected with the enforcement of this Act.

Such rules, when approved by the Governor General in Council and published in the *Calcutta Gazette*, shall have the force of law.[a]

Power to appoint new managers.

20. Whenever the Commissioner thinks fit, he may appoint any officer to be a manager in the stead of any manager appointed under this Act ; and thereupon the property then vested under this Act in the former manager shall become vested in the new manager.

Every such new manager shall have the same powers as if he had been originally appointed.

Managers to be public servants.

21. Every manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

[a] See *Calcutta Gazette*, 3rd October, 1877, Part I, p. 1441.

Bar of suits.

22. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act.

Saving of jurisdiction of Courts in Chutiá Nágpur in respect of certain suits.

23. Nothing in this Act precludes the Courts in Chutiá Nágpur having jurisdiction in suits relating to the succession to, or claims of maintenance from, any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits; but to all such suits the manager of such property shall be made a party.

Act not to affect powers conferred by Bengal Act II of 1869.

24. Nothing in this Act shall be deemed to take away or abridge any power or authority conferred by an Act passed by the Lieutenant-Governor of Bengal in Council, entitled "An Act to ascertain, regulate and record certain tenures in Chutiá Nágpur," on any person appointed to be a Special Commissioner thereunder, or on the Commissioner of the division of Chutiá Nágpur.

ACT No. XXII OF 1876.

Received the Governor General's assent on the 17th of December 1876.

An Act to provide for the management of the Public Museum at Calcutta.

Preamble.

WHEREAS, by Act No. XVII of 1866, reciting that it was expedient to provide for the establishment of a Public Museum at Calcutta, to be called the Indian Museum, it was enacted that the Governor General in Council should cause to be erected at the expense of the Government of India a suitable building in Calcutta, to be devoted in part to collections illustrative of Indian Archæology and of the several branches of Natural History, in part to the preservation and exhibition of other objects of interest, whether historical, physical or economical, in part to the records and offices of the Geological Survey of India, and in part to the fit accommodation of the Asiatic Society of Bengal and to the reception of their library, manuscripts, maps, coins, busts, pictures, engravings and other property; and it was also enacted that the Government of India should keep the said building in repair and pay and defray the salaries, allowances and pensions of the officers and servants, and all other expenses, connected with the said Museum; and by the Act now in recital certain officials and other persons therein mentioned or referred to, to the number of thirteen, and their successors, were constituted a Body Corporate by the name of the Trustees of the Indian Museum, and the said trustees were empowered to receive bequests, donations and subscriptions, and to deal with the same in the manner therein mentioned for the purposes of their trusts therein mentioned; and it was also enacted that the said trustees should have the exclusive possession, occupation and control, for the purposes of such

trusts, of the said building, other than those portions thereof which, upon its completion, should be set apart by the said trustees for the records and offices of the said Geological Survey and for the accommodation of the said Asiatic Society and the reception of their library, manuscripts, maps, coins, busts, pictures, engravings and other property; and it was also enacted that all officers and servants, salaried or otherwise, employed in the care or management of the trust-property, should be appointed, and might be removed or suspended, by the said trustees, subject to such regulations and conditions as the said trustees should think proper; and it was also enacted that the Council of the said Asiatic Society should cause the collections belonging to such Society, and illustrative of Indian Archæology and the several branches of Natural History, and all additions that might be made thereto, to be removed to and deposited in the said building at the expense of the Government of India as soon as the same should be completed so far as to be in a condition to receive the said collections, and that an inventory of the articles in such collections should be made by the said Society, one copy whereof was to be signed by the said trustees and kept by the said Society, and another copy was to be signed by the said Society and kept by the said trustees, and that the said Society should continue to have the same exclusive property in and control over their said library, manuscripts, maps, coins, busts, pictures and engravings which they then possessed, and that the Council of the said Society should have the exclusive possession, occupation and control, for the purposes of the said Society, of those portions of the said building which should be set apart for the accommodation of the said Society and the reception of their library and other property thereinbefore mentioned;

And whereas the Government of India has caused the said building to be erected, and the Council of the said Society has caused the said collections belonging to the same Society to be removed to and deposited in the said building at the expense of the Government of India; and an inventory of the articles in such collections has been made by the said Society, one copy whereof has been signed by the said trustees and delivered to the said Society, and another copy has been signed by the Council of the said Society and delivered to the said trustees;

And whereas the said trustees have, in pursuance of the said Act, set apart certain portions of the said building for the said records and offices of the Geological Survey of India;

And whereas, in consideration of a sum of one hundred and fifty thousand rupees paid to them by the Government of India, the Council of the said Society has relinquished the exclusive possession, occupation and control secured to them by the said Act, of the portions of the said building which,

under the said Act, were to be set apart for the accommodation of the said Society and the reception of their said library and other property;

And whereas it is expedient to alter the constitution of the said Body Corporate and to amend the law relating to the appointment and salaries of the said officers:

And whereas under the circumstances aforesaid it is expedient to repeal the said Act, and to re-enact it with the modifications hereinafter appearing; It is hereby enacted as follows:—

Preliminary.

Short title.

1. This Act may be called "The Indian Museum Act, 1876."

Repeal of Act No. XVII of 1866.

2. Act No. XVII of 1866 *(to provide for the establishment of a Public Museum at Calcutta)* shall be repealed. But all persons nominated under the said Act as trustees of the Indian Museum, and all officers and servants appointed under the same Act and now holding office, shall be deemed to have been respectively nominated and appointed under this Act.

Incorporation of the Trustees.

Trustees of the Indian Museum incorporated.

3. The trustees of the said Indian Museum shall be—

such Secretary to the Government of India as the Governor General in Council from time to time directs in this behalf,

the Accountant General,

five other persons to be nominated by the Governor General of India in Council,

the President of the Asiatic Society of Bengal and four other members of the Council of the said Society for the time being, to be nominated by the Council of the said Society,

the Superintendent of the Geological Survey of India, and

three other persons to be elected by the trustees for the time being and appointed under their common seal;

And such trustees and their successors shall, subject to the provisions hereinafter contained, be and are hereby constituted a Body Corporate by the name of the "Trustees of the Indian Museum," and shall have a common seal, and by such name shall have perpetual succession; and all the powers of the said Corporation may be exercised so long and so often as there shall exist seven members thereof.

Ex officio members.

4. The persons for the time being holding the offices respectively mentioned in section three shall be *ex officio* members of the said Body Corporate, and shall cease to be such members respectively upon ceasing to hold the said offices respectively;

Provided that, whenever the said Secretary to the Government of India, Accountant General or Superintendent of the Geological Survey of India is also the President of the said Society, the Council of the said Society may nominate any other person, being a member of the said Society, to be a trustee under this Act so long as such presidency is held by the said Secretary, Accountant General or Superintendent.

Power to appoint new Trustees.

5. If any of the said trustees for the time being dies or is absent from India for more than twelve consecutive months, or desires to be discharged, or refuses or becomes incapable to act, or not having been an *ex officio* member of the said Body Corporate becomes such, or if any of the trustees to be nominated by the Council of the said Society ceases to be a member of such Council, then and in every such case the authority which appoints the trustee so dying, being absent from India, desiring to be discharged, refusing or becoming incapable to act, or becoming an *ex officio* member as aforesaid, or ceasing to be such member of Council as aforesaid, may appoint a new trustee in his place according to the provisions of section three,

and every trustee so appointed shall thereupon become and be a member of the said Body Corporate as fully and effectually as if he had been hereby constituted a trustee.

Powers of the Trustees.

Trustees empowered to receive bequests, donations and subscriptions.

6. It shall be lawful for the said trustees (*a*) to receive bequests, donations and subscriptions of land, buildings, money and any such objects of interest as aforesaid, and (*b*) to hold the same and to lay out such money for the maintenance, improvement and enlargement of the collections deposited in, presented to, or purchased for, the said Indian Museum, and otherwise for the purposes of the same Museum;

and all such collections shall become the property of the said trustees for the purposes of their trusts herein mentioned;

and the said trustees shall have the exclusive possession, occupation and control, for the purposes of such trusts, of the whole of the said building, other than those portions thereof which have been set apart by the said trustees for the records and offices of the Geological Survey of India.

Power to trustees to make bye-laws.

7. The said trustees may from time to time make bye-laws consistent with this Act—

(*a*) for the management of the said museum;

(*b*) for the summoning, holding and adjournment of general and special meetings of the said trustees;

(*c*) for securing their attendance at such meetings;

(*d*) for the provision and keeping of minute-books and account-books;

(*e*) for the compiling of catalogues, and

(*f*) for all other purposes necessary for the execution of their trusts.

Power to trustees to appoint officers and servants.

8. Subject to such regulations and conditions as the trustees think fit, they shall appoint, and may remove or suspend, all officers and servants, salaried or otherwise, employed in the care or management of the trust-property: provided—

(*a*) that no officer be appointed without the approval of the Governor General in Council if such officer be, at the date of his appointment, in India, or without the approval of the Secretary of State for India in Council if such officer be not then in India;

(*b*) that no new office be created, and no salaries of officers be altered, without the previous sanction of the Governor General in Council.

Trustees may exchange or sell duplicates.

9. The said trustees may from time to time order any duplicates of printed books, medals, coins, specimens of Natural History or other curiosities deposited in the Indian Museum to be exchanged for manuscripts, books or other objects of interest, or direct any such duplicates to be sold and the money to arise from such sale to be laid out in the purchase of manuscripts, books, maps, medals, coins, specimens of Natural History or other curiosities that may be proper for the said museum.

Quorum.

10. At all meetings of the said trustees three shall be a quorum for the transaction of business and for the exercise of any of the powers conferred upon them by this Act.

Duties of the Trustees.

Trustees shall furnish annual reports and accounts.

11. The said trustees shall furnish to the Government of India, on or before the first day of December in each year, a report of their several proceedings for the past twelve months, and further shall furnish, on or before the same day in each year, to such Auditor as the Governor General in Council appoints in this behalf, accounts of all moneys expended by the trustees during the past twelve months, supported by the necessary vouchers.

The said trustees shall cause such report and accounts to be annually published for general information.

Collections of Asiatic Society to be kept distinguished in the museum.

12. The said trustees shall cause every article in the said collections belonging to the Asiatic Society, and all additions that may hereafter be made thereto otherwise than by purchase under section six, to be marked and numbered, and (subject to the provisions contained in sections nine and fifteen) to be kept and preserved in the said Indian Museum with such marks and numbers; and an inventory of such additions shall be made by the said Society, one copy whereof shall be signed by the said trustees and delivered to the said Society, and another copy shall be signed by the Council of the said

Society and delivered to the said trustees, and shall be kept by them along with the inventory already delivered to the said trustees as aforesaid.

Articles received in exchange and moneys paid on sale to be held on trust.

13. All objects taken in exchange under section nine for, and all moneys payable on sale under the same section of, any of such articles, shall be held on trusts and subject to powers and declarations corresponding as nearly as may be with the trusts, powers and declarations by this Act limited and declared concerning the same articles.

Miscellaneous.

Officers under Act to be public servants.

14. All officers and servants appointed under this Act shall be considered public servants within the meaning of the Indian Penal Code; and so far as regards their salaries, allowances and pensions and their leave of absence from duty, they shall be subject to the rules for the time being applicable to uncovenanted civil servants of the Government of India.

Their salaries, pensions and leave.

In case of determination of trust, Asiatic Society may reclaim their collections.

15. In the event of the trust hereby constituted being determined, all collections then in the said Indian Museum, other than those next hereinafter mentioned, shall become the property of the Government of India, and the collections and additions mentioned in section twelve shall become the property of the said Society or their assigns.

ACT No. XII of 1877.

Received the Governor General's assent on the 28th of June 1877.

An Act to amend the Chutiá Nágpur Encumbered Estates Act, 1876.

Preamble.

For the purpose of amending the Chutiá Nágpur Encumbered Estates Act No. VI of 1876; It is hereby enacted as follows:—

Amendment of Act VI of 1876, section 12, clause 2.

1. For the word "six" shall be substituted the word 'twelve" in the second clause of the twelfth section of the said Act.

ACT No. XIX of 1877.

Received the Governor General's assent on the 28th of December 1877.

An Act to enable certain District Judges to suspend and remove certain ministerial officers, and for other purposes.

Preamble.

Whereas it is expedient to empower the District Judges of the Lower and the North-Western Provinces of the Presidency of Fort William, and the

District Judges of the Presidency of Fort Saint George, to suspend and remove ministerial officers of the Courts of Subordinate Judges, Munsifs and District Munsifs; and whereas it is also expedient to provide in the Presidency of Fort Saint George for the transfer of ministerial officers from one Court to another; It is hereby enacted as follows :—

1. After the second paragraph of section 36 of the Bengal Civil Courts Act, 1871, the following paragraph shall be inserted (that is to say) :— Amendment of Act No. VI of 1871.

[*See supra*, p. 435.]

2, 3.—[*Omitted as relating only to the Presidency of Fort Saint George.*]

S. B. Bose.